

IN THE UNITED STATES DISTRICT COURT FOR TENNESSEE  
FOR THE MIDDLE DISTRICT  
NASHVILLE DIVISION

JANE DOE,  
Plaintiff,  
v.  
THE METROPOLITAN  
GOVERNMENT OF NASHVILLE AND  
DAVIDSON COUNTY, TENNESSEE  
AND DR. ADRIENNE BATTLE  
Defendants.

No. 3:20-CV-01023  
Jury Demand  
Judge Trauger  
Magistrate Judge  
Holmes  
Lead Case

DR. LILY MORENO LEFFLER,  
Plaintiff,

v.  
THE METROPOLITAN  
GOVERNMENT OF NASHVILLE AND  
DAVIDSON COUNTY, TENNESSEE,  
AND DR. ADRIENNE BATTLE  
Defendants.

DR. JAMES BAILEY,  
DR. PIPPA MERIWETHER, and  
DR. DAMON CATHEY,  
Plaintiffs,

v.  
METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON  
COUNTY, TENNESSEE and  
DR. ADRIENNE BATTLE,  
Defendants.

The Deposition of: LISA GAY SPENCER  
April 8, 2022

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1           The deposition of Lisa Gay Spencer was  
2 taken by counsel for the Plaintiffs, by notice, at  
3 the law offices of Metro Legal, in Nashville,  
4 Tennessee, on April 8, 2022, pursuant to the  
5 provisions of the Federal Rules of Civil Procedure.

6           All formalities as to notice, caption,  
7 certificate, reading and signing of the deposition  
8 are not waived. All objections, except as to the  
9 form of the questions, are reserved to the hearing.

10 -----  
11  
12 APPEARANCES:

13 For the Plaintiffs:

14       Dr. James Bailey  
15       Dr. Lily Leffler  
16       Dr. Pippa Meriwether  
17       Jane Doe

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1                    LISA GAY SPENCER,

2       called as a witness and, having been first duly  
3       sworn, was deposed as follows:

4       EXAMINATION BY MS. STEINER:

5            Q.     Could you please state your full name for  
6       the record?

7            A.     Lisa Gay Spencer.

8            Q.     Okay. Now, Ms. Spencer, what is your home  
9       address?

10          A.     [REDACTED],  
11       Franklin 37064.

12          Q.     How long have you lived there?

13          A.     22 years.

14          Q.     So no plans of moving in the near future,  
15       correct?

16          A.     No, ma'am.

17          Q.     Now, Ms. Spencer, my name is Anne Steiner.  
18       I know we have met before?

19          A.     Yes, ma'am.

20          Q.     I represent four plaintiffs who have sued  
21       Metro for retaliation, and that would be -- one is  
22       (name spoken off record) who we will refer to as  
23       Jane Doe, so if you hear me say Jane Doe, I'm  
24       referring to (name spoken off record), is that okay?

25          A.     Yes, ma'am.

1           Q.    I represent Dr. James Bailey, I represent  
2 Dr. Pippa Meriwether and I represent Dr. Lily  
3 Leffler.

4           A.    Okay.

5           Q.    To my right is Jesse Harbison and she  
6 represents Dr. Damon Cathey.

7                   Okay. Now, I'm going to ask you a whole  
8 bunch of questions today. If you don't understand  
9 my question, just stop me and I will go back and  
10 rephrase it for you. I want you to answer to the  
11 best of your ability. If you need a break at any  
12 point in time, just say so and we will break.  
13 Hopefully, this will not last much longer than the  
14 morning, okay?

15                   Now, how many times have you given a  
16 deposition?

17           A.    Two.

18           Q.    Are you sure about that?

19           A.    I believe that's correct.

20           Q.    Because I thought that when I took your  
21 deposition in the Garcia matter, you had given a  
22 deposition --

23           A.    I'm asking myself. I'm sorry, there was  
24 one other deposition.

25           Q.    So you've given three depositions?

1 A. Three.

2 Q. Okay.

3 A. You're correct.

4 Q. This would be the fourth, correct?

5 A. Yes.

6 Q. Now, the other two times, who -- the other  
7 three times, one was Garcia, in the Garcia matter,  
8 correct?

9 A. Yes.

10 Q. And the other two were in what case or  
11 what matter?

12 A. One was a personal injury case.

13 Q. Uh-huh.

14 A. One was an employment case at State  
15 Government.

16 Q. And was that Tennessee State Government?

17 A. Yes, ma'am.

18 Q. And were you -- do you know why you were  
19 deposed in that case?

20 A. I had peripheral contact with the case  
21 itself. I was an assistant to an individual who was  
22 involved.

23 Q. Was the individual sued in their  
24 individual capacity?

25 A. No, ma'am.

1           Q.    The person you were the assistant to, were  
2 they the one filing the lawsuit?

3           A.    No.

4           Q.    Were they the one who made the decision  
5 about -- was it a discrimination case?

6           A.    It was an employment case, but it wasn't a  
7 discrimination case.

8           Q.    Was it like breach of contract?

9           A.    Harassment case.

10          Q.    Harassment based on what?

11          A.    Sex.

12          Q.    Do you recognize that that is a  
13 discrimination claim?

14          A.    You're correct. Under Title VII, it's a  
15 discrimination claim.

16          Q.    Was the person you worked for, were they  
17 being charged with harassment?

18          A.    No.

19          Q.    How was the person you worked for involved  
20 in the case?

21          A.    Our department investigated the case.

22          Q.    Okay. And did you have any -- who was the  
23 plaintiff?

24          A.    It was years ago. Let me try to remember  
25 her name. It is not coming to me. I apologize. If

1 I think of it, I will say it later, but it is not  
2 coming to me.

3 Q. Do you know what court it was filed in?

4 A. I think all of our cases were filed in  
5 chancery court.

6 Q. Davidson County Chancery?

7 A. Yes, ma'am.

8 Q. Do you know who any of the lawyers were?

9 A. It was so long ago, and I was so little  
10 involved that I probably just blocked it out of my  
11 mind.

12 Q. I'm going to stop. This is the only thing  
13 I'm going to stop you about in the deposition. I  
14 saw you over there shaking your head, the court  
15 reporter cannot take that down, so any time that you  
16 go -- if you shake your head, I may not even see it  
17 because I may be looking another direction, or if  
18 you go uh-huh or huh-uh, that's the only time I'll  
19 stop you and say, could you please say yes or no for  
20 the record and then you can explain, okay?

21 A. Okay. I'm sorry. I was shaking my head  
22 at myself for not being able to remember the answer  
23 to the question.

24 Q. Okay. Now, do you know who the attorney  
25 was in the AG's office?

1 A. Tall guy, blond hair, Zach.

2 Q. Was the state defended by the attorney  
3 general's office?

4 A. Yes.

5 Q. Who was your supervisor?

6 A. At the time, my supervisor was Deborah  
7 Story.

8 Q. For the State of Tennessee?

9 A. She was the commissioner of human  
10 resources at the time.

11 Q. Okay. What was your job title for the  
12 State?

13 A. At that time, I was the executive  
14 assistant to the commissioner.

15 Q. That would have been executive assistant  
16 to Deborah Story?

17 A. Uh-huh.

18 Q. Is that a yes?

19 A. Yes, ma'am.

20 Q. And I don't mean to be rude. It's just  
21 that I'm going to catch on that every time you say  
22 that, okay?

23 MR. FOX: It just makes the record  
24 clearer. It's easier for everyone to read it later.

25 THE WITNESS: I understand.

1 BY MS. STEINER:

2 Q. Tell me a little bit about your  
3 background. Are you from Tennessee?

4 A. No, ma'am.

5 Q. Where are you from?

6 A. Texas.

7 Q. And when did you come to Tennessee?

8 A. 1983.

9 Q. Tell me about your educational background.

10 A. I have a college degree. I have a  
11 bachelor's degree from the University of North  
12 Texas, and I have a master's degree from Tennessee  
13 Tech.

14 Q. What is your bachelor's degree in?

15 A. English.

16 Q. And your master's, what is that in?

17 A. The program of study is called a  
18 professional studies and the concentration is human  
19 resources leadership.

20 Q. When did you get your master's?

21 A. 2016.

22 Q. When did you graduate from North Texas?

23 A. 1983.

24 Q. Okay. You do not have a teaching degree,  
25 correct?

1 A. No, ma'am, I do not.

2 Q. And you do not have an administrative  
3 license, correct?

4 A. I do not.

5 Q. Okay. Now, did you say you came to  
6 Tennessee in 1983?

7 A. Yes.

8 Q. Okay. So you came here soon as you  
9 graduated from north Texas?

10 A. I graduated, I got married, I moved.

11 Q. Okay. And when you got to Tennessee, that  
12 would have been 1983, approximately 1983, correct?

13 A. Yes, ma'am.

14 Q. When you got to Tennessee in 1983, what  
15 was the first job you had?

16 A. I worked at Service Merchandise.

17 Q. And what was your position?

18 A. I sold jewelry.

19 Q. How long did you do that?

20 A. Several years.

21 Q. From 1983 until approximately when?

22 A. 1989.

23 Q. Okay. Is that about when Service  
24 Merchandise closed?

25 A. I think Service Merchandise didn't close

1 until the end of the '90s. I left there because I  
2 was also, at that point, working full time.

3 Q. And when you were at Service Merchandise,  
4 did you have any HR duties?

5 A. No. I sold jewelry.

6 Q. Did you have any employees that reported  
7 to you?

8 A. I did not.

9 Q. Tell me about the other job you had that  
10 you were working full time at?

11 A. I was at the Tennessee Board of Regents.

12 Q. Who was your direct report?

13 A. I started there under Dr. Burt Bach.

14 Q. And who did you end with?

15 A. Dr. Howell Todd.

16 Q. Todd, T-O-D-D?

17 A. T-O-D-D.

18 Q. What years did you work for the Tennessee  
19 Board of Regents?

20 A. 1988 to 1991, I believe, when I went --  
21 yeah, 1991.

22 Q. So just about three years?

23 A. Uh-huh. Yes, ma'am.

24 Q. And what was your job title?

25 A. I was the executive assistant to the vice

1 chancellor for academic affairs. And I was later  
2 executive assistant to the vice chancellor for  
3 administration, and the assistant vice chancellor  
4 for personnel.

5 Q. Say what again, because you lost me.

6 A. Sorry. So I started in the academic  
7 affairs office under the vice chancellor for  
8 academic affairs. I moved to the office of the vice  
9 chancellor for administration, and the assistant  
10 vice chancellor for personnel.

11 Q. Okay. And what is your husband's name?

12 A. Paul.

13 Q. Paul Spencer.

14 A. Yes, ma'am.

15 Q. What does he do?

16 A. He is an architect?

17 Q. Is he from Tennessee?

18 A. He is not.

19 Q. Where does he work?

20 A. He works for Gould Turner, G-O-U-L-D.

21 Q. Did you have any connections to any of the  
22 individuals with the Board of Regents when you  
23 started working there?

24 A. I did not.

25 Q. Did your husband or any other relative

1 have any connections?

2 A. No, ma'am.

3 Q. Has your husband had any contract with the  
4 State of Tennessee?

5 A. No, ma'am.

6 Q. Okay. What type structures does your  
7 husband design?

8 A. Hospitals.

9 Q. Okay. Now, do you have any children here  
10 in Tennessee?

11 A. No.

12 Q. Do you have any children?

13 A. Yes, ma'am.

14 Q. How many do you have?

15 A. I have one.

16 Q. Who is that?

17 A. His name is Richard Perry Spencer.

18 Q. And where does Richard live?

19 A. Austin, Texas.

20 Q. Okay. Do you have any other relatives  
21 here in middle Tennessee?

22 A. I do not.

23 Q. Does your husband have any relatives here  
24 in middle Tennessee?

25 A. No, ma'am.

1 Q. Now, why did you leave the Tennessee Board  
2 of Regents?

3 A. I was transferred to Columbia State  
4 Community College.

5 Q. When you were with the Board of Regents,  
6 did you have any HR duties?

7 A. In the vice chancellor's office working  
8 for the assistant commissioner for personnel -- or  
9 the assistant vice chancellor for personnel.

10 Q. What were your HR duties there?

11 A. HR policies, recordkeeping, everything was  
12 manual then, so we did a lot of paperwork.

13 Q. Did you know that the EEOC requires you to  
14 keep records related to promotions, hirings and  
15 firings?

16 A. Yes, ma'am.

17 Q. Did you know that's a violation of federal  
18 law if you don't keep those record?

19 A. Yes, ma'am.

20 Q. Did you know that when you worked at Metro  
21 schools?

22 A. Yes, ma'am.

23 Q. Does Metro schools have a policy that  
24 requires that it keep the records related to hiring,  
25 firing, promotions?

1           A.     We keep all of that in our HR information  
2 system.

3           Q.     If records are missing, is there some sort  
4 of an investigation that is conducted to find out  
5 why the records may be missing?

6           A.     Help me with what kind of records.

7           Q.     Records related to hiring, firing or  
8 promotions.

9           A.     Are you asking about what's in the HR  
10 information system or are you asking about  
11 documentation?

12          Q.     I'm asking about either one. If you have  
13 documentation that's related to hiring and firing  
14 and promotions, does Metro schools maintain those  
15 documents?

16          A.     Metro schools maintains an employee file.

17          Q.     Okay. Anything else?

18          A.     The applicant tracking systems that Metro  
19 has used over the years.

20          Q.     Anything else?

21          A.     And then the HR IS systems themselves of  
22 which there's been two since I've been there.

23          Q.     I'm going to come back to this topic in  
24 just a little bit. I want to go on with your  
25 background. When you went to Columbia State

1 Community College, what was your position there?

2 A. I was the training coordinator in the job  
3 training office.

4 Q. Did you have any job duties for hiring and  
5 firing?

6 A. No.

7 Q. How long did you stay at Columbia State?

8 A. 1992 to 1997 -- 1991 to 1997.

9 Q. And did your job duties stay the same the  
10 whole time you were there?

11 A. They did.

12 Q. Then where did you do?

13 A. Midstate Automotive.

14 Q. What did you do for Midstate Automotive?

15 A. I worked for the president of the company  
16 in a variety of capacities.

17 Q. Where is Midstate located?

18 A. Midstate was located in the old Castner  
19 Knott building on Craighead Street.

20 Q. And what was your job title?

21 A. Executive assistant to the president.

22 Q. Did you have any job duties for HR policy?

23 A. Yes, ma'am.

24 Q. Okay. Who was the president?

25 A. When I went to work for Midstate, the

1 president was Bill Cook.

2 Q. Did it change?

3 A. It did.

4 Q. To who?

5 A. We had an interim president named David  
6 Plucinskiy, P-L-U-C-I-N-S-K-Y. And then the last  
7 few years, it was Roger McCabe, M-C-C-A-B-E.

8 Q. And when you left Midstate Automotive,  
9 where did you go?

10 A. Fairgrounds Speedway.

11 Q. What did you do at Fairgrounds Speedway?

12 A. I more or less ran the place. I was the  
13 office manager. That was the most interesting job  
14 of my career.

15 Q. Is that state run or local?

16 A. It's run by the Nashville Fair Board.  
17 It's owned by the National Fair Board, it's run by a  
18 management company, the fair board hires every year.

19 Q. How long did you stay there?

20 A. One season.

21 Q. Okay. Now, why did you leave the job at  
22 Midstate auto?

23 A. O'Reilly Auto Parts bought Midstate in the  
24 fall of 2001.

25 Q. Why did you leave the job at the

1 fairgrounds?

2 A. 14 hour days, seven days a week.

3 Q. Okay. Where did you go after you left the  
4 fairgrounds?

5 A. A consulting company called the HR Group.

6 Q. The HR Group?

7 A. Yes, ma'am.

8 Q. Where were they located?

9 A. Brentwood.

10 Q. What did you do for them?

11 A. I worked on executive searches, I worked  
12 on HR policy manuals, I worked on basic -- if  
13 clients needed, you know, different things, I was  
14 sort of a resource for clients. I also did the  
15 billing and several other things for the president  
16 of the company.

17 Q. When you say you worked on policy manuals,  
18 was that for customers --

19 A. It was for clients, yes, ma'am.

20 Q. -- of the HR Group?

21 A. Yes, ma'am.

22 Q. Okay. Did you have training in the  
23 discrimination laws?

24 A. Yes, ma'am.

25 Q. Okay. Does that include Title VII, Title

1 VI, Americans with Disabilities Act?

2 A. Title VII, ADA.

3 Q. Anything else? Title VII, ADA, do you  
4 recall any other laws that you've been trained in?

5 A. Are you asking about at that particular  
6 time or in general?

7 Q. Let's just say in general. What are you  
8 trained in, what laws are you trained in?

9 A. So Title VII.

10 Q. Uh-huh.

11 A. The ADA, FMLA, there's Title VII, and  
12 equal employment opportunity kind of go together.

13 Q. Anything else that you can tell me about?

14 A. So I attended employment seminars  
15 frequently. There was employment law in my master's  
16 program.

17 Q. What I'm asking you is, what laws do you  
18 understand and know about, and right now I've got  
19 Title VII, FMLA, ADA, any other laws out there  
20 that's employment related?

21 A. The portions of the Tennessee state law  
22 that apply to extended leave, the portions of the  
23 Tennessee state law that apply to the things that  
24 are relevant to my work at Metro government.

25 Q. Anything else?

1           A.     Specifically, I'm not coming up with like  
2 a list of...

3           Q.     Okay. How long did you work for the HR  
4 Group?

5           A.     Four years.

6           Q.     What were those years?

7           A.     2002 to 2006.

8           Q.     Why did you leave?

9           A.     I went to work for State government.

10          Q.     State government?

11          A.     Yes, ma'am.

12          Q.     Who hired you to work for State  
13 government?

14          A.     Deborah Story.

15          Q.     And was she the commissioner of HR?

16          A.     She was.

17          Q.     For what department?

18          A.     Human resources department. It was called  
19 the department of personnel in 2016.

20          Q.     How long did you stay working for State  
21 government?

22          A.     Until 2015.

23          Q.     Where did you go in 2015?

24          A.     Propel Change.

25          Q.     What does that mean?

1 A. It's the name of a consulting company.

2 Q. Okay. Why did you leave the State?

3 A. The commissioner of human resources at the  
4 time wanted to implement a program that I felt was  
5 not ethical.

6 Q. Who was the HR -- you said the who of HR?

7 A. The commissioner.

8 Q. Who was the commissioner?

9 A. Rebecca Hunter.

10 Q. What happened to Deborah Story?

11 A. Deborah left State government when  
12 Governor Bredesen left State government. The  
13 commissioners are appointed by the governor and they  
14 only serve the governor's term.

15 Q. Okay. So then when Bredesen left the  
16 governor's office, Deborah Story left?

17 A. Yes.

18 Q. Did you leave at the same time?

19 A. I did not.

20 Q. You stayed and you worked under Rebecca  
21 Hunter?

22 A. Yes.

23 Q. Okay. And she was under -- who was the  
24 governor then?

25 A. Bill Haslam.

1 Q. And what did she want you to do that you  
2 thought was unethical?

3 A. It was an assessment, it was a personality  
4 test that she wanted to give all of our employees,  
5 and then based their development plans on the  
6 results of the personality test.

7 Q. And why did you think that was unethical?

8 A. Because the personality test itself did  
9 not have what's called test, retest validity, which  
10 means that a person could take it once and get one  
11 result, and take it again another time and get a  
12 different result, so basing someone's required  
13 development on the results of the test.

14 Q. How did you know it did not have test,  
15 retest validity?

16 A. It's documented in many, many places.

17 Q. So did you Google it or something and you  
18 read that it did not have test, retest validity?

19 A. I did look it up, but I also talked to  
20 some people at MTSU that work in the industrial --  
21 psychology division, and they said it's a fairly  
22 well-known fact that that particular test, which the  
23 Myers-Briggs test, does not have a high degree of  
24 rest, retest validity.

25 Q. Do you think it's important for tests that

1 are given to employees or workers that they be  
2 valid?

3 A. I think if you're going to use an  
4 assessment to make decisions about a person's  
5 employment, it should not be something that the  
6 results could change literally the next day.

7 Q. Is there a place where you can send tests  
8 to, such as Murfreesboro, where the workers will  
9 look at the test and tell you whether or not it's  
10 valid or not valid with regard to retest validity?

11 A. So test, retest validity actually comes  
12 with years of results from texts. You can't -- if I  
13 were to create a test and send it to them and say,  
14 does this have test, retest validity, they would  
15 tell me that they couldn't answer that question,  
16 they'd have to have years of results to answer that  
17 question.

18 Q. Do you try to use tests that have years of  
19 results to make sure they're going to be valid?

20 A. Yes, ma'am.

21 Q. Do you think that's fair to the employees  
22 who might be applying for a position that the test  
23 is considered to be valid?

24 A. Yes, ma'am.

25 Q. And where do you get the tests from, where

1 do you find them?

2 A. There are companies all over the place  
3 that sell all sorts of assessments for employment.  
4 There is any number of them.

5 Q. Okay. So then you can go on -- because I  
6 don't understand anything about this. So you  
7 actually can go online or you can go wherever and  
8 there's a list of companies that will give you  
9 particular tests for a particular area; am I right  
10 on that?

11 A. I don't know that there is like a market  
12 place such that you're describing, but there are  
13 companies that provides assessments for  
14 organizations to use to help determine strengths,  
15 personality traits, tendencies.

16 Q. I'm sorry. (interruption occurred.)  
17 Sorry about that.

18 A. That's okay. Myers-Briggs is considered  
19 to be a personality test.

20 Q. What about testing for stuff like  
21 interviews, questions that should be asked in an  
22 interview?

23 A. I'm not aware of any tests for questions  
24 to be asked in an interview.

25 Q. Do you agree that those testings, though,

1 need to have some sort of a set -- if you're going  
2 to apply testings, it needs to be applied equally  
3 across the board to everyone that's applying for the  
4 job?

5 A. So, yes. If you are assessing anything  
6 for a person, as part of an employment application,  
7 if you're using a standardized test of any kind, you  
8 should use the same standardized test for all. It  
9 would only be if you're doing that, not everyone  
10 does that.

11 Q. And should the same evaluators be used?  
12 Meaning, do you understand the concept that if Brook  
13 Fox evaluates one person and Jesse Harbison  
14 evaluates the same person using the same tests, the  
15 same questions, they may end up with different  
16 results?

17 A. So I think I would want to clarify that an  
18 assessment is something specific. It's not a set of  
19 interview questions. An assessment is something  
20 designed to understand if you have a technical  
21 skill. For example, an Excel test, what is your  
22 level of skill in Excel. Or it is designed to  
23 determine a personality trait, a level of judgment,  
24 a -- something about you, but it is separate and  
25 apart from a set of interview questions.

1 Q. Do you think interview questions need to  
2 be scored fairly?

3 A. I think that if you are scoring interview  
4 questions, which not everyone does, then you should  
5 try to be fair and equitable about how you score.

6 Q. Do you recognize that different  
7 individuals may have different scoring techniques?

8 A. Yes.

9 Q. Meaning one may score more harshly or  
10 lower than another individual who may give primarily  
11 higher scores; do you recognize that?

12 A. Yes. That does happen.

13 Q. Does Metro schools do assessments on its  
14 workers?

15 A. Not that I'm aware of. Not assessments in  
16 the context of which we are discussing assessments.

17 Q. Okay. Now, got you going to work for  
18 Propel Change, I think that was the last one we  
19 discussed. What years did you work there?

20 A. 2016, 2017.

21 Q. Then where did you go?

22 A. I went to Metro.

23 Q. And who hired you to come to Metro?

24 A. Deborah Story.

25 Q. How were you hired?

1 A. Through an interview process.

2 Q. Do you know if other people interviewed,  
3 too?

4 A. Yes, ma'am.

5 Q. Do you know whether or not the interviews  
6 were scored?

7 A. I do not know what Deborah's process was.

8 Q. Were you requested to come to work for  
9 Metro?

10 A. Deborah called me and said -- she asked me  
11 what I was doing, and I told her. And she said, I  
12 have this job that I really want to fill, and I  
13 said, I'm loving what I'm doing, I don't want to do  
14 that, and she called me back about six weeks later  
15 and she said, do you still love what you do, and I  
16 said yes. And then it was probably four or five  
17 months after that that my family situation changed,  
18 I needed to come in off the road, and so I looked at  
19 Metro's website and lo and behold, the job that she  
20 had talked to me about months before was actually  
21 posted, so I applied for it.

22 Q. What was Ms. Story's position?

23 A. She was the chief of human resources.

24 Q. When you interviewed, who did you  
25 interview with?

1 A. I interviewed with her.

2 Q. Anyone else?

3 A. No.

4 Q. Who was the director of schools?

5 A. Dr. Joseph.

6 Q. So then you started at Metro schools in  
7 what year?

8 A. 2017.

9 Q. And you're still there today, correct?

10 A. Yes, ma'am.

11 Q. When you started in 2017, what was your  
12 position?

13 A. HR partner for strategic initiatives.

14 Q. What is your current position?

15 A. Executive officer for human resources.

16 Q. When did you become executive officer for  
17 human resources?

18 A. In October of this year -- or October of  
19 2021.

20 Q. And does that mean you are in charge of  
21 HR?

22 A. It does not.

23 Q. What department are you in charge of?

24 A. I'm in charge of three divisions within  
25 HR.

1 Q. And what are those divisions?

2 A. The employee resource center, the  
3 compensation office, and what we call HR  
4 administration, which encompasses compensation  
5 strategy and job descriptions and position numbers.

6 Q. Does it have anything to do with  
7 discipline problems with workers?

8 A. Very seldom.

9 Q. Who handles that in HR?

10 A. The employee relations division.

11 Q. And who is in charge of that?

12 A. Mary Ellen Zander.

13 Q. And who is in charge of the discrimination  
14 policies?

15 A. The policy themselves?

16 Q. Uh-huh.

17 A. The board policy is a -- the board voted  
18 on that policy. I think it's the TSBA  
19 discrimination policy, but the board voted on it.  
20 The employee relations division assists in -- I hate  
21 the word "enforcement," but the enforcement of that  
22 policy.

23 Q. That would be Mary --

24 A. Mary Ellen Zander.

25 Q. Do you have any meetings with Mary Ellen

1 Zander to discuss the discrimination claims that may  
2 be filed?

3 A. No, ma'am.

4 Q. Before you became the executive officer,  
5 executive officer of what again?

6 A. Human resources.

7 Q. Of human resources. What was your job?

8 A. The executive director for human resources  
9 administration.

10 Q. And when did you have that?

11 A. That was all of the year before. I'm  
12 trying to remember.

13 Q. October of 2020 through '21?

14 A. Actually it would have been July.

15 Q. July of 2020 through October of '21?

16 A. I think that's right.

17 Q. What did you do before you were the  
18 executive director of HR administration?

19 A. I'm trying to think my way through the  
20 dates and the job titles. I've done a lot of the  
21 same things over the time that I've been there,  
22 except for picking up supervision of those three  
23 divisions, but it seems like my job title has  
24 changed every time I looked up. So it was business  
25 partner, then it was director of strategic

1 initiatives, I think. Then it was executive  
2 director for HR administration and then it was  
3 executive officer.

4 Q. What did you do as a business partner?

5 A. So the original job was -- project  
6 management was the largest part of it.

7 Q. What would be a project?

8 A. So for instance, putting together the  
9 calendar for HR managers or HR business partners, at  
10 the time, to use for ensuring that we had all of our  
11 transfers and our hires and our new hires, and we  
12 call it the transfer window, so the transfer window  
13 process, we have to start at a certain time that's  
14 more or less convergent with budgets being built,  
15 and then throughout the next three or four months,  
16 according to the dates in the state statute, we have  
17 to be sure that anyone who is being nonrenewed gets  
18 noticed and processed and transfers get made and new  
19 hires get brought in and all the things.

20 Q. Okay. So when you first came on there,  
21 you worked with nonrenewals, transfers?

22 A. I worked on the process. I didn't work on  
23 the actual -- like I didn't do the nonrenewals, I  
24 was the person who helped put the standard operating  
25 process together.

1 Q. What was the standard operating process  
2 for nonrenewals?

3 A. The standard process for nonrenewals  
4 follows the state statute which says that you have  
5 to notify employees of their nonrenewal by the last  
6 day of school, you know, making sure that all the  
7 information up to that point gets handled.

8 Q. And did you then help draft the policy  
9 that Metro schools uses for nonrenewal?

10 MR. FOX: Objection to the form.

11 THE WITNESS: I worked on the process.  
12 The procedure has historically been done by the  
13 chief of HR.

14 BY MS. STEINER:

15 Q. That would have been Ms. Story?

16 A. At that time, yes.

17 Q. And, now, who is the chief of HR?

18 A. Melissa Roberge.

19 Q. Who was it before Ms. Roberge?

20 A. Chris Barnes.

21 Q. And who was it before Chris Barnes?

22 A. Tony Majors.

23 Q. Who was it before Tony Majors?

24 A. Deborah Story.

25 Q. Gotcha. Now, have you ever been fired

1 from any job?

2 A. Yes.

3 Q. Where?

4 A. The assistant commissioner for human  
5 resources at the State of Tennessee.

6 Q. Who fired you?

7 A. Rebecca Hunter.

8 Q. Why did she fire you?

9 A. Because I disagreed with her. I felt like  
10 the program she wanted to implement was unethical.

11 Q. And what reason did Ms. Hunter give for  
12 firing you?

13 A. Our leadership styles do not match.

14 Q. Okay. Did you file any complaint?

15 A. I did not.

16 Q. Did you file any lawsuit?

17 A. I did not.

18 Q. Have you ever been a part of any lawsuit  
19 outside the depositions that we've discussed?

20 A. I have not.

21 Q. One deposition was the claim against the  
22 State of Tennessee, correct?

23 A. Yes.

24 Q. Who was the commissioner then, was it  
25 Rebecca Hunter or was it Deborah Story?

1 A. Deborah Story.

2 Q. And then the third one was Vanessa  
3 Garcia's case, correct?

4 A. Yes.

5 Q. And then the fourth one is this case  
6 today?

7 A. Yes.

8 Q. Have you ever testified in court?

9 A. No.

10 Q. Now, I apologize ahead of time, I ask  
11 everybody this question, and I'm pretty sure I know  
12 the answer ahead of time. You have never been  
13 charged with any crime?

14 A. No, ma'am.

15 Q. When you first went to work for Metro  
16 schools, what was your pay?

17 A. 91.

18 Q. Thousand?

19 A. Yes.

20 Q. What's your current pay?

21 A. 155.

22 Q. When you changed positions to be the  
23 executive director of HR, who was the executive  
24 director of HR?

25 A. There wasn't one.

1           Q.    How long had there not been an executive  
2 director of HR?

3           A.    In that realm, there had not been an  
4 executive director in two years.

5           Q.    And the pay for that position is 155?

6           A.    For the executive director?

7           Q.    Yes.

8           A.    No.

9           Q.    What was the pay for the executive  
10 director? And I could be getting confused here.

11          A.    So could I. And I seldom actually look at  
12 my paycheck, so a hundred and -- I want to say 130  
13 when I went into that role.

14          Q.    That would be in the summer of 2020?

15          A.    No. That would have been -- sorry, that  
16 would have been in the summer of 2019, because Dr.  
17 Majors put me in that job. That would have been in  
18 the summer of 2019.

19          Q.    So is the summer of 2019, you were put in  
20 the position of executive director of HR  
21 administration?

22          A.    Yes.

23          Q.    I had that as July 20th through October?

24          A.    That's my fault. It was 2019, because Dr.  
25 Majors actually put me in that role, and then I did

1 not change titles again until October of last year.

2 Q. October of 2021?

3 A. Yes.

4 Q. What is your current title?

5 A. Executive officer of HR.

6 Q. That's a promotion, correct?

7 A. It was.

8 Q. Who was the executive officer of HR?

9 A. There was not one.

10 Q. But that's the job that Chris Barnes did?

11 A. No. Chris Barnes was the chief of HR.

12 Q. Chief of HR. Okay. So in October of  
13 2021, there was not an executive officer of HR?

14 A. Correct.

15 Q. And had that position ever existed before?

16 A. Yes.

17 Q. How long had it gone without being filled?

18 That could be a terrible question. Did that  
19 position actually exist in the budget in the years  
20 leading up to October of '21?

21 A. It has not been in the budget since 2019.

22 Q. Did you apply for the job?

23 A. I did not.

24 Q. Did anyone else apply for the job?

25 A. No.

1 Q. Was the job posted?

2 A. Yes. But the way that our applicant  
3 tracking system works, we have to post a job in  
4 order to fill a job.

5 Q. So it was posted, but you knew it was your  
6 job; is that what you're saying?

7 A. Yes.

8 Q. Okay. Good. And who told you that you  
9 were going to get that job?

10 A. Dr. Battle.

11 Q. And when you applied for that job, who got  
12 your job as executive director of HR?

13 A. No one.

14 Q. Is that job currently open?

15 A. No.

16 Q. Has it been eliminated?

17 A. My job -- the executive director of HR job  
18 basically became the executive officer job. So I'm  
19 doing all of the things I did as the executive  
20 director of administration and a few more.

21 Q. What are you doing extra?

22 A. Executive officers are cabinet level  
23 officers, so cabinet meetings and additional  
24 responsibilities that go with that, most committees,  
25 more meetings.

1 Q. Anything else?

2 A. It's the representation, you -- the  
3 executive officer of a division represents the  
4 division if the chief can't be there, which is why I  
5 have lots more meetings.

6 Q. And the increase in pay was about -- how  
7 many was that between the two, executive director  
8 and executive officer?

9 A. At the time, it was probably around 6 or  
10 \$7,000.

11 Q. And now what's the difference?

12 A. Well, so the salary that I had in October  
13 of 2021 went to 155 and there it has stayed.

14 Q. From 130?

15 A. No, ma'am. We had had step increases and  
16 COLA in that interim period, so my salary had gone  
17 up.

18 Q. As executive director of HR  
19 administration, what was your highest salary?

20 A. I want to say it was around 142, 143,  
21 somewhere in there.

22 Q. So it's about a \$13,000 increase for you?

23 A. I don't do math in my head very well, but  
24 if 143 is right, then, yeah, that is right, 12.

25 Q. Now, how did Dr. Battle contact you about

1 this position?

2 A. So I was in a meeting with Dr. Battle and  
3 Dr. Barnes where Dr. Barnes told -- that's when Dr.  
4 Barnes told me he was leaving and when Dr. Battle  
5 told me that Ms. Roberge would be coming in as the  
6 new chief.

7 Q. And how did she tell you?

8 A. That Ms. Roberge was coming in as the new  
9 chief?

10 Q. That you were getting promoted to being  
11 the executive officer?

12 A. She said -- so Dr. Barnes said he was  
13 leaving, I looked at Dr. Battle and said, what do  
14 you need for me to do, and she said, I'm going to  
15 bring in Melissa Roberge as the chief of HR and  
16 general counsel, which is a role we've not had  
17 before. And I said in a single word, I said  
18 hallelujah. And she said, we're probably going to  
19 do some other reorganization within HR, and I'm  
20 going to need you to do other things, and I said,  
21 yes, ma'am, whatever you need me to do. And then  
22 Hank Clay called me and he said Dr. Battle wants you  
23 to take the executive officer role, and I said,  
24 okay, if that's what Dr. Battle wants, that is what  
25 I will do.

1 Q. When did he call you to tell you this?

2 A. Probably a day or two after the meeting.

3 Q. So it would have been sometime in October,  
4 you believe?

5 A. It was late September, mid September, late  
6 September. We had about a two-or-three-week  
7 transition period with Dr. Barnes before he left and  
8 Melissa came.

9 Q. So sometime in late September of '21?

10 A. Uh-huh.

11 Q. That you were told that you had this  
12 promotion, correct?

13 A. Yes.

14 Q. Because this is a promotion, correct?

15 A. It is a promotion.

16 Q. Both in terms of pay and job  
17 responsibilities, correct?

18 A. Yes, ma'am.

19 Q. Do you know if -- do you how much Chris  
20 Barnes made?

21 A. \$185,000 a year.

22 Q. And how much does Ms. Roberge make?

23 A. \$185,000 a year.

24 Q. So she basically took over Chris Barnes'  
25 position?

1           A.     She did, but Dr. Battle added to that  
2 position, the general counsel work, as well. We've  
3 never had a general counsel, so Melissa has two  
4 roles.

5           Q.     Was that job posted?

6           A.     No.

7           Q.     Can you tell me any other jobs in HR that  
8 were changed in the spring of 2020 through the  
9 present that were not posted?

10          A.     There should not have been any. I don't  
11 believe there were any, because Dr. Battle chooses  
12 her leadership teams. Every other job in the  
13 district, we post, we advertise.

14          Q.     But even though you may post a job, it  
15 doesn't necessarily mean that you're accepting  
16 applications, correct, because your job got posted?

17          A.     We have a means within the system, because  
18 we have to use the applicant tracking system to move  
19 people. It's an integration process, a system  
20 integration process that moves people into the HR  
21 information system. So you have to build the job  
22 within the applicant tracking system, put somebody  
23 in it, and move them in order to get them into the  
24 HR IS correctly.

25          Q.     Was Ms. Roberge's job posted?

1           A.    No.  It went the same way.  It was  
2 posted -- she did actually have to apply for it,  
3 because she was not even a Metro employee -- or an  
4 MNPS employee, so we didn't have an application on  
5 her.  She had to apply for it, but it was not  
6 publicly posted.

7           Q.    When you say, not publicly posted, what do  
8 you mean?

9           A.    I didn't go out on the website for other  
10 applications to come in, because it was part of Dr.  
11 Battle's leadership.

12          Q.    So but it was posted?

13          A.    The technical term is posted, but I think  
14 what you're -- what confuses people even in our  
15 division sometimes, the technical term is posting,  
16 because that's what the system calls putting a job  
17 up, but you have to determine whether then you  
18 advertise that job internally or externally for  
19 other applicants.

20          Q.    When you advertise it internally, what  
21 does that mean?

22          A.    That means that individuals within MNPS  
23 can apply for the job.

24          Q.    And when you advertise it externally, what  
25 does that mean?

1           A.     Individuals external to MNPS can apply for  
2 the job.

3           Q.     So if it's advertised externally, can  
4 internal candidates still apply?

5           A.     Yes.

6           Q.     So if it's advertised externally, every  
7 citizen around here can apply for that job including  
8 people who still -- who work for MNPS, correct?

9           A.     Yes.

10          Q.     And if it's advertised internally, it's  
11 only for people who work at MNPS?

12          A.     Yes.

13          Q.     Okay. Your job was advertised as  
14 executive officer -- was advertised internally,  
15 correct, or was it externally?

16          A.     It would have been internal.

17          Q.     Did anyone apply other than you?

18          A.     Not that I know of.

19          Q.     How long was it advertised?

20          A.     I don't know that I know the answer to  
21 that.

22          Q.     Okay. But it's my understanding that you  
23 were told you had that job, correct?

24          A.     Mr. Clay called me and said, Dr. Battle  
25 would like for you to do this, and I said, of

1 course, I will do this.

2 Q. Did you interview with Dr. Battle?

3 A. No.

4 Q. Had you filled out any application online  
5 for that job?

6 A. No.

7 Q. Okay. You said that Dr. Battle is  
8 entitled to hire her, what was it you called it,  
9 management team?

10 A. Her leadership team, her cabinet.

11 Q. Okay. Would the associate superintendents  
12 be on the cabinet?

13 A. I don't remember whether they were or not.

14 Q. Okay. Who currently is on the cabinet?

15 A. The current cabinet is Chiefs and  
16 executive officers.

17 Q. Do you know who they are?

18 A. Yes, ma'am.

19 Q. Who?

20 A. I'd have to count in my head. So Chief  
21 Roberge, human resources; Chief Chris Henson,  
22 finance; Chief of Staff Hank Clay; Chief of  
23 Academics in Schools, Mason Bellamy; Chief of  
24 Strategy Keri Randolph; Chief Operating Officer  
25 Maura Sullivan. We don't have a chief of innovation

1 anymore, she retired in January. I'm counting my  
2 way across the org chart in my head. And then David  
3 Williams is the executive officer for academics or  
4 curriculum and instruction, I think is the actual  
5 terminology.

6 Q. Anyone else that you can think of?

7 A. Elisa Norris is the executive officer for  
8 strategy and performance management. Renita Perry  
9 is the executive officer for renovation. Ken Stark  
10 is the executive officer for operations.

11 I knew I forgot a chief. Michelle  
12 Springer is the chief of student services.

13 Q. And that was a new job, correct, chief of  
14 student services?

15 A. Yes. That job was created in the summer  
16 of 2019.

17 Q. How do you know that?

18 A. Because I was there. It was part of --  
19 Dr. Springer became the chief in 2019.

20 Q. Meaning, were you in some of the meetings  
21 with Dr. Battle when that was discussed?

22 A. No, ma'am.

23 Q. But you knew that's when she got that job?

24 A. Yes.

25 Q. Okay. Gotcha. Do you mean 2020 instead

1 of 2019 for Michelle Springer?

2 A. Maybe I do. Hold on. Yes. Because  
3 Dr. Majors was still there in 2019, so Dr. Springer  
4 did not take that job until 2020. You are correct.

5 Q. Did she -- was that job posted; do you  
6 know?

7 A. I don't know.

8 Q. Do you know if anyone else applied for  
9 that job?

10 A. Wait a minute. Wait a minute. Let me  
11 think. That job was posted. I believe that job was  
12 posted and there were other candidates.

13 Q. Sure. Do you know whether or not  
14 Ms. Springer was told, though, by Dr. Battle that  
15 she wanted her to apply for that position?

16 A. I don't know the answer to that.

17 Q. Okay. Maura Sullivan, was she new to  
18 Metro schools?

19 A. She is new to Metro schools.

20 Q. And the job that she came in on, did that  
21 exist in 2019, 2020?

22 A. It did not.

23 Q. And she was the chief operating officer?

24 A. She is the chief operating officer.

25 Q. And do you know whether or not she was

1 contacted by anyone from Metro schools about the  
2 position?

3 A. I do not know how she found out about the  
4 job or -- I don't.

5 Q. And was the chief operating officer a new  
6 position?

7 A. Yes.

8 Q. And did it take the place of any old  
9 position that you know of?

10 A. Chief Henson had both finance and  
11 operations, and Dr. Battle made the decision to  
12 leave all of finance with Chief Henson and pull Ken  
13 Stark's division of operations under a new chief.

14 Q. Okay. So Chris Henson's salary stayed the  
15 same, correct?

16 A. Yes. He is still the chief financial  
17 officer. He is still chief.

18 Q. So what they did was they pulled some of  
19 his job duties and gave them to Ms. Sullivan and she  
20 got the title COO?

21 A. Yes.

22 Q. Do you know how much she makes?

23 A. All the chiefs make \$185,000.

24 Q. So that's a completely new position for  
25 185, correct, that did not exist prior to the school

1 year 2020 through 2021?

2 A. Yes. But it is not funded from the  
3 operating budget.

4 Q. How is it funded?

5 A. It's funded through ESSER.

6 Q. And that's the federal funds, correct?

7 A. Yes.

8 Q. And who made the decision to fund it  
9 through ESSER?

10 A. I don't know the answer to that.

11 Q. How much did Metro schools get through  
12 ESSER?

13 A. You're asking the wrong person.

14 Q. Do you know whether or not it was  
15 26 million?

16 A. I -- you truly are asking the wrong  
17 person.

18 Q. Do you know of any other positions that  
19 are funded through ESSER?

20 A. There are many positions funded through  
21 ESSER right now.

22 Q. Are those central office positions, some  
23 of those?

24 A. Not many of them. Most of them are in  
25 schools.

1 Q. Okay. But you do have some central office  
2 positions that are funded?

3 A. There are some.

4 Q. Do you know any other ones other than Ms.  
5 Sullivan's that's funded through ESSER?

6 A. Not off the top of my head.

7 Q. How do you know that there's other central  
8 office jobs funded through ESSER, did you hear that  
9 in meetings?

10 A. The reason that I know it is, the process  
11 for posting a position involves identifying what we  
12 call a costing allocation, and the costing  
13 allocation tells us whether it's operating money,  
14 grant money, ESSER money, Cares Act money.

15 Q. Uh-huh.

16 A. And I see those as they go by, because my  
17 team are the people that enter them.

18 Q. And so the chief operating officer  
19 position is funded through ESSER?

20 A. Yes.

21 Q. And you've seen other central office  
22 positions that have come in through there that are  
23 funded through ESSER?

24 A. Yes.

25 Q. Was ESSER used so that the employees would

1 not lose their jobs, was that part of the reason for  
2 the funding?

3 A. ESSER money has to be used to -- there are  
4 certain restrictions on ESSER money. So it has to  
5 be related from recovery from the pandemic whether  
6 it's learning-related recovery or  
7 operational-related recovery, it has to be linked to  
8 recovery from the pandemic.

9 Q. Would that also apply if you have a job  
10 that you can't afford because of the pandemic  
11 that -- like they did with all the small businesses,  
12 you took out a loan to help pay for your workers  
13 during the pandemic, is that how this ESSER worked,  
14 too?

15 A. I don't know that I would -- I don't know  
16 that I would qualify that it's exactly the same  
17 thing. I think the purpose of the funding for  
18 schools specifically was to ensure that students  
19 were receiving all of the services that students  
20 need to receive in order to recover, if you will,  
21 from the pandemic.

22 Q. Now, Ms. Sullivan at chief operating  
23 officer, what does she do?

24 A. She is responsible for a number of student  
25 facing divisions like transportation, nutrition

1 services, textbooks, the facilities and maintenance  
2 team reports to her, the warehouse team reports to  
3 her, the boundary planning team reports under  
4 operations.

5 Q. So then if you have some sort of a  
6 reporting structure where the schools would report  
7 to the person in central office, then that was  
8 something that probably could be put on the ESSER  
9 funds?

10 A. My understanding is that when they  
11 spiraled ESSER funds to the schools, they told the  
12 principals to use those monies as additional  
13 supports for things like instructional specialists,  
14 interventionists, those people who could help with  
15 what's termed as learning loss. There are some  
16 positions, for instance, we have one -- one of the  
17 laws requires a tutoring program, so we have a  
18 tutoring -- what they call the high dosage tutoring  
19 program. I believe the director of that program is  
20 funded through ESSER.

21 Q. Now, Ms. Sullivan, her whole salary is  
22 funded through ESSER, correct?

23 A. To the best of my knowledge, yes.

24 Q. And she is like a chief operating officer  
25 over different areas of the schools, correct?

1 A. Different areas that support the schools.

2 Q. And you also have other officers that  
3 would support the schools, correct, in central  
4 office?

5 A. That's the purpose of the support hub is  
6 to support the schools.

7 Q. And would the associate superintendent  
8 support the schools?

9 A. They did support the schools.

10 Q. Do the executive directors support the  
11 schools?

12 A. Yes, that's their job.

13 Q. Did school choice support the schools?

14 A. School choice supports families in  
15 choosing schools, would be my definition of school  
16 choice, but I don't work with school choice.

17 Q. Now, other than Ms. Sullivan, anyone else  
18 on the cabinet or in the cabinet that's being paid  
19 through ESSER funds?

20 A. I'm trying to remember. It's possible  
21 that Chief Randolph's salary is also funded through  
22 ESSER, but I am not certain about that.

23 Q. And what was his position again?

24 A. Chief -- Keri Randolph is the chief of  
25 strategy.

1 Q. How much does he make?

2 A. She. It's 185.

3 Q. Was that a new position?

4 A. Yes.

5 Q. So that did not exist in the 2019, 2020  
6 school budget, correct?

7 A. It did not.

8 Q. Okay. What was it called again?

9 A. I believe they call it chief of strategy  
10 or chief of strategic investments, one or the other.

11 Q. Any other position funded through ESSER  
12 that's in the cabinet?

13 A. I don't think so, but I'm not a hundred  
14 percent certain.

15 Q. Is your job funded through ESSER?

16 A. It is not.

17 Q. How is your job funded?

18 A. It's funded through local funds, operating  
19 budget.

20 Q. How is Dr. Battle's salary funded?

21 A. Dr. Battle is on the operating budget.

22 Q. Is that local funds?

23 A. Yes. Those two terms are interchangeable  
24 within our world. Chris Henson would tell you to  
25 use the term operating budget.

1 Q. Now, I want to ask you a couple of  
2 questions about nonrenewals.

3 A. Before you start that series, could I have  
4 a glass of water?

5 MR. FOX: We've been going almost an hour  
6 and a half.

7 MS. STEINER: Let's break.

8 (Brief break observed.)

9 BY MS. STEINER:

10 Q. Ms. Spencer, are you the one that actually  
11 draws up the organization charts?

12 A. I have the program for making the  
13 organization charts, yes.

14 Q. And in the 2020, 2021 school year, did you  
15 attend any of meetings about the reorg?

16 A. No.

17 Q. Okay. For nonrenewals, I believe you  
18 said, and correct me if I'm wrong, but when you  
19 first went to work for Metro, that you worked with  
20 the policy for the nonrenewals, correct?

21 A. I worked on the standard operating  
22 process.

23 Q. Standard operating process. Did you  
24 develop a standard operating process?

25 A. We developed a calendar timeline, if you

1 will, that just helped everyone know what was the  
2 date that principals had to tell HR, what was the  
3 date that HR sent back approvals, what was the date  
4 that principals had to tell teachers, those sorts of  
5 things, when did the letters go now.

6 Q. Okay. So then if -- what was your  
7 understanding of why a teacher would be nonrenewed  
8 or an employee would be nonrenewed? What was your  
9 understanding of that? Was it for performance?

10 A. A teacher can be nonrenewed for  
11 performance if we have documentation. A teacher can  
12 be nonrenewed if a principal changes the  
13 programmatic structure within their school, a  
14 teacher can be nonrenewed if there is a district  
15 initiative that removes a program or changes a  
16 program.

17 Q. Okay. So if you do not have a change in a  
18 program and you do not have any other changes going  
19 on in the school, the teacher can be nonrenewed if  
20 there's documentation, and I assume that's related  
21 to job performance?

22 A. Yes. Teachers are generally -- if a  
23 principal wants to nonrenew a teacher, then -- for  
24 performance, then we ask to see documentation that  
25 that principal has been working with that teacher

1 over the course of time to improve performance.

2 Q. And does the documentation then get into  
3 your office?

4 A. To my office individually, no.

5 Q. Who would it go to?

6 A. The HR managers work with the principals  
7 during the budget process, and the executive  
8 directors are also involved in that obviously.

9 Q. How many employees report to you?

10 A. 23.

11 Q. Okay. Do you have HR managers reporting  
12 to you?

13 A. I do not.

14 Q. Who do they report to?

15 A. They report -- at the moment they report  
16 to Amber Tyus, T-Y-U-S.

17 Q. And back in 2019 to 2020, who did they  
18 report to?

19 A. In '19, '20, if Dr. Majors was there, they  
20 reported to Dr. Majors.

21 Q. But when you -- in your time working for  
22 Metro schools, you helped implement this policy,  
23 this reporting policy, correct?

24 A. I helped write the standard operating  
25 procedure for implementation of the policy.

1           Q.     Okay. And in the standard operating  
2 procedure, you had in there that if you nonrenew a  
3 teacher, make sure that there is the proper  
4 documentation to show that the principal has worked  
5 with the teacher to try to improve the problem?

6           A.     Yes. The nonrenewal guidance for teachers  
7 does include that.

8           Q.     And what about for nonrenewal for  
9 principals, is that any different or should you just  
10 use the same principal?

11          A.     Nonrenewal for administrators is not part  
12 of our standard nonrenewal process. We do teachers.

13          Q.     Who does the nonrenewal for principals?

14          A.     Nonrenewal of administrators is a  
15 conversation between the executive director, the  
16 chief of academics in schools and the director of  
17 schools.

18          Q.     Do you need a paper trail?

19          A.     Again, I don't do those. I know that we  
20 have had principals on plans of assistance.

21          Q.     Now, I've heard of that. Tell me what a  
22 plan of assistance is.

23          A.     A plan of assistance is truly a plan that  
24 says to a principal, here is an area in which you  
25 have opportunity to grow, here are means and methods

1 for that growth, here are some timelines. It's  
2 administered by the executive director who the  
3 principal reports to.

4 Q. And so then if there's issues with job  
5 performance with a principal, they need to be put on  
6 a plan of assistance, correct?

7 A. They don't have to be put on a plan of  
8 assistance. The executive director can work with  
9 them in the same way that -- you don't necessarily  
10 start with a plan of assistance, let me put it that  
11 way. If there's a minor issue, then the executive  
12 director might just work with the principal. If  
13 it's something more significant, there might be a  
14 plan of assistance.

15 Q. Okay. But if the problem persists or if  
16 it's something that may affect the job of the  
17 principal, they need to be put on one of these plans  
18 of assistance?

19 A. There's not an absolute requirement to be  
20 put on a plan.

21 Q. But it's the best practice, correct?

22 A. If it's the right thing to do, given the  
23 circumstances, then I would say yes.

24 Q. Now, when you nonrenew, is the teacher  
25 told that their contract is actually being

1 nonrenewed?

2 A. Yes.

3 Q. And meaning you don't nonrenew somebody  
4 and not tell them, just leave them guessing as to  
5 what happened?

6 A. I would certainly hope not.

7 Q. Okay.

8 A. The process is that teachers are notified.

9 Q. Okay. Did you know that teachers under  
10 the Tenure Act is defined as administrators, too,  
11 anyone that's certificated?

12 A. Yes.

13 Q. So then if you're nonrenewing a  
14 certificated worker or a tenured worker, is it  
15 Metro's policy that you tell them that they are  
16 being nonrenewed in the letter?

17 A. Yes, but it's different for tenured and  
18 nontenured. So a tenured employee will be told, if  
19 we have to nonrenew a tenured teacher, which is  
20 seldom, then the process is different in terms of  
21 what they're told and how they move the next year to  
22 a different place. A nontenured employee isn't  
23 necessarily -- what is the word I'm looking for,  
24 guaranteed a space.

25 Q. If you're nontenured, you have to reapply,

1 correct?

2 A. Yes. Correct.

3 Q. If Metro schools decides not to hire you,  
4 you don't have a job, correct?

5 A. Correct.

6 Q. So if you're nonrenewed -- do you know  
7 whether or not -- whether or not it's even possible  
8 to nonrenew a tenured teacher or do they have to be  
9 transferred?

10 A. We actually call it something different.  
11 We call it -- it's a word -- it's a made-up word.  
12 It's not called nonrenewed, it's a different word.  
13 It basically means that that person -- we will find  
14 that person a role, so a tenured person, if they are  
15 being displaced out of a school -- that's not the  
16 right word either, it will come to me. It's  
17 un-something.

18 MR. FOX: Objection to the form that I  
19 think it calls for a legal analysis -- to the extent  
20 it calls for a legal analysis.

21 BY MS. STEINER:

22 Q. Ms. Spencer, is it true that if the  
23 teacher is tenured, you can actually go through a  
24 disciplinary process to fire them if you want to?

25 A. Yes.

1 Q. And they have to be told of the charges,  
2 correct?

3 A. Yes.

4 Q. And then they have to be told of their  
5 rights, appeal rights, too, correct?

6 A. Yes.

7 MR. FOX: Objection to the form.

8 BY MS. STEINER:

9 Q. Then they can -- the school board makes a  
10 decision about whether or not to terminate the  
11 tenured person, correct?

12 A. Yes.

13 Q. And that's whether you're tenured as a  
14 teacher that's actually in the schools teaching or  
15 tenured as an administrator who's got the  
16 certification, correct?

17 A. Tenure is tenure.

18 Q. Okay. Whether you're an administrator or  
19 a teacher, it's treated the same, correct?

20 A. To the best of my knowledge, yes.

21 Q. And you cannot nonrenew the contract of a  
22 tenured person, correct?

23 A. That's why we call it something different.

24 Q. So then if you had somebody who you  
25 actually are transferring, that's different than

1 nonrenewing a contract, correct?

2 MR. FOX: Objection to this whole line of  
3 questioning, to the extent it calls for a legal  
4 analysis, but if there's something she knows in her  
5 field, I think that's reasonable.

6 MS. STEINER: I object to speaking  
7 objections.

8 MR. FOX: Objection to the form.

9 BY MS. STEINER:

10 Q. Okay. Ms. Spencer, is it correct that if  
11 you transfer a teacher from one school to the other,  
12 you tell them, you're being transferred? For  
13 instance, if you wanted to move someone from  
14 Hillsboro to Hillwood, you would say, Dr. Burnette,  
15 you're being moved from the math department at  
16 Hillsboro and we're going to put you in the math  
17 department at Hillwood, correct?

18 A. If we have to do that, then, yes, we do.

19 Q. That's not a nonrenewal, correct?

20 A. It is not.

21 Q. And you would never tell Dr. Burnette who  
22 is teaching at Hillsboro, Dr. Burnette, we are going  
23 to nonrenew you, nonrenew your contract, but by the  
24 way, we're transferring you. That's actually a  
25 transfer, isn't it?

1           A.     If you're transferring someone, if you are  
2 affirmatively transferring someone, you have made  
3 the decision they are moving, which happens very  
4 seldom.

5           Q.     Okay.

6           A.     Then there is not a nonrenewal process  
7 that goes with that, you're simply moving them from  
8 one place to another. But it does not happen often,  
9 it happens generally at the beginning of the school  
10 year if enrollments in one school are up and  
11 enrollments in another school are down and we have  
12 to move people, that's generally when that happens.

13          Q.     Okay. Now, if somebody is actually being  
14 transferred into a teaching position, in your  
15 policy, is there a deadline for telling them when  
16 they are going to be transferred?

17          A.     So if a teacher has applied for a transfer  
18 during the open transfer window, then we process all  
19 of those before the 15th of June.

20          Q.     Okay. That's what I thought. And if you  
21 are literally -- if you've made the decision to  
22 transfer someone from one position to a teaching  
23 position, do you also tell them where they're going  
24 by June 15th?

25          A.     I'm going to say that that would be the

1 standard. I will also say that given all the  
2 considerations of principals filling jobs, we don't  
3 always know exactly the place. What we know is that  
4 we will have a place. We can say to a teacher, we  
5 have one or two things left, we're going to get you  
6 a place, but we don't always know, particularly if  
7 something happens, if something strange happens.  
8 But the concept is that transfers happen before the  
9 15th of June and then you start filling everything  
10 else.

11 Q. Okay. Now, Dr. Battle, is she the one who  
12 has the ultimate authority about whether or not  
13 someone is being nonrenewed if they're a principal?

14 A. Yes. She approves the nonrenewals.

15 Q. If she says somebody is nonrenewed, does  
16 anybody in the school system have the ability to  
17 say, no, they are not nonrenewed?

18 A. No.

19 Q. Okay. Meaning her word is the law there  
20 at Metro schools, correct?

21 A. Meaning all of us report in some fashion  
22 up to Dr. Battle and Dr. Battle makes those final  
23 decisions.

24 Q. Okay. Now, did you also know that the  
25 elimination of a position, if it also requires --

1     eliminations of positions need to be approved by the  
2     school board?

3             MR. FOX:   Objection to the form.

4             THE WITNESS:   The school board approves  
5     the budget every year that has the number of  
6     positions in it.   The school board approves the  
7     budget every year that has the number of positions  
8     in it.

9     BY MS. STEINER:

10            Q.     Were you aware of any time that Metro  
11     eliminated a position and did not have it approved  
12     by the school board?

13            A.     I think there might have been some  
14     question about what was in the operating budget in  
15     2018, 2019.

16            Q.     And what positions was eliminated?

17            A.     I think the question was around the  
18     positions in HR.

19            Q.     What position?

20            A.     The executive directors for leadership.

21            Q.     That was Dr. Garcia?

22            A.     Yes, ma'am.

23            Q.     And would you agree that a federal judge  
24     found that Metro violated the state law when it  
25     eliminated Dr. Garcia's position and did not have it

1 approved by the school board?

2 MR. FOX: Objection to the form.

3 BY MS. STEINER:

4 Q. Did you know that?

5 A. I don't know that I did, honestly.

6 Q. When that -- did anybody come into your  
7 department and say, we made an error when we had --  
8 we did not have the school board eliminate these  
9 positions and we've got to make sure in the future  
10 we do it properly? Did anyone do that, 2018 through  
11 the present, that you know of?

12 A. I know that we pay a lot of attention to  
13 the number of positions that are in the operating  
14 budget. We have meetings with every department  
15 quarterly to ensure that the positions that are in  
16 the budget are the positions that are filled.

17 Q. Did anyone ever -- was there any  
18 investigation or were you ever told that the  
19 elimination of the position that Dr. Garcia had was  
20 not done properly?

21 A. There was a lot of conversation about that  
22 as Dr. Garcia's lawsuit went forward.

23 Q. And as her lawsuit went forward, did you  
24 know -- do you know who Lily Leffler is?

25 A. I do.

1 Q. Did you know that she was kin to Dr.  
2 Garcia?

3 A. I had heard that. I don't know how.

4 Q. Who did you hear that from?

5 A. Hallway gossip. I don't know how they're  
6 related but I have heard that they're related.

7 Q. Was that common knowledge?

8 A. I don't know.

9 Q. Did you ever hear Dr. Battle questioning  
10 anyone about Lily Leffler's loyalty to MNPS because  
11 of her connection to Dr. Garcia and Dr. Garcia's  
12 lawsuit?

13 A. No, ma'am.

14 Q. Do you know that you cannot retaliate  
15 against someone because of their association with  
16 someone who is engaged in protected activity?

17 A. I do know that.

18 Q. Do you know whether or not Dr. Battle know  
19 that?

20 A. I couldn't speak to that.

21 Q. If there is retaliation that is going on  
22 at Metro schools, should that be brought to your  
23 attention?

24 A. If there is retaliation specific to any  
25 activity within Metro schools, it should be brought

1 to the attention of any administrator. That's what  
2 the policy says, is that any employee who feels that  
3 they're being retaliated against can go to any  
4 administrator.

5 Q. Okay. In your cabinet meetings, since  
6 you've been a member of the cabinet, since I believe  
7 October of 2021?

8 A. Yes, ma'am.

9 Q. Have there been any discussions about  
10 retaliation at Metro schools?

11 A. No.

12 Q. Should the letter to the teacher that  
13 tells them they're being nonrenewed state in that  
14 letter, you are being nonrenewed?

15 A. Yes.

16 Q. Okay. Do you know who Jane Doe is?

17 A. You said at the beginning that that's how  
18 you would refer to (name spoken off record).

19 Q. Okay. We're going to leave her name out  
20 from this point on, okay? Did you know her back in  
21 '19 -- 2019, 2020?

22 A. I met her in 2019, 2020.

23 Q. Did you know she was the director of  
24 school choice?

25 A. Not when I met her, but I did know that

1 later.

2 Q. Did you know that she had a child that  
3 attended Metro schools?

4 A. I did not.

5 Q. Did you know that her child was in that  
6 class -- do you now know that she had a child that  
7 attended Metro schools?

8 A. I do now know that.

9 Q. When did you find out that she had a child  
10 that was at Metro schools?

11 A. Somewhere in the time period after she  
12 received notice that the director of school choice  
13 position was being eliminated. She actually said,  
14 and I can't remember whether it was a conversation  
15 or an e-mail, but she said something about her child  
16 and a situation, and that was the first that I knew  
17 that she had a child who had been in any kind of  
18 situation in the schools.

19 Q. Okay. Now, a little bit a while ago, you  
20 said that a charge of retaliation should be brought  
21 to any administrator, correct?

22 A. A charge of discrimination or retaliation  
23 should be reported to anyone.

24 Q. And if it's reported to you, do you have a  
25 job duty for processing the claim?

1           A.     If a person reports retaliation to me,  
2 then I have a duty to report.

3           Q.     Who would you report to?

4           A.     I would go to my chief and the director of  
5 employee relations and say this employee has made a  
6 charge.

7           Q.     And the chief would be Dr. Battle?

8           A.     No, the chief of HR.

9           Q.     Who would be?

10          A.     At the moment would be Melissa Roberge.

11          Q.     Who was the other person you'd go to?

12          A.     Mary Ellen Zander, the director of  
13 employee relations.

14          Q.     Okay. If someone tells you that they're  
15 being retaliated against, do you have a job duty for  
16 asking them what are they talking about and trying  
17 to figure out exactly what it involves, or would you  
18 immediately refer them to -- or would you go to the  
19 director of -- would you go to Ms. Roberge and to  
20 Ms. Alexander?

21          A.     It is my practice to, number one, give the  
22 employee the resources that they need to make a  
23 formal complaint, and, number two, to report to my  
24 chief and the director of employee relations that  
25 this employee has reported to me that they are being

1 retaliated against.

2 Q. Then is it your understanding that those  
3 complaints are investigated?

4 A. Yes, ma'am.

5 Q. Now, were you familiar with the Let's Make  
6 a Slave issue that occurred at Waverly Belmont, the  
7 lesson?

8 A. Not until I heard about it at a board  
9 meeting one night.

10 Q. Was it brought up at the board meeting by  
11 angry parents?

12 A. Yes.

13 Q. Did this board meeting occur shortly after  
14 the lesson was taught at Metro schools?

15 A. I believe so.

16 Q. And did the lesson make both national and  
17 local news?

18 A. I know it made the local news. I don't  
19 know if it made national news.

20 Q. Do you know who reported it to the press?

21 A. I don't.

22 Q. Did you hear any statements made that Jane  
23 Doe reported it to the press?

24 A. No, ma'am.

25 Q. Did you know that Jane Doe filed a

1 complaint about that lesson?

2 A. I did not know that until after -- I do  
3 know it now, I did not know it at the time.

4 Q. When did you find out that she had filed a  
5 complaint about the lesson?

6 A. After her position was eliminated out of  
7 the 2021 budget.

8 Q. And who did you find out about it from?

9 A. Again, I can't remember whether it was a  
10 conversation or an e-mail that she mentioned it.

11 Q. Did she also state that -- did she convey  
12 to you that she thought she was being retaliated  
13 against because of that complaint?

14 A. Yes. Not in those exact words, but, yes.

15 Q. But she told you enough that you knew that  
16 she thought -- Jane Doe thought she was being  
17 retaliated against when her position was being  
18 eliminated because of her complaints about the Let's  
19 Make a Slave?

20 A. Yes.

21 Q. Okay. And did you give her -- did you  
22 report that to anyone?

23 A. I did tell Dr. Barnes that she had said  
24 that.

25 Q. Did she say that in front of Dr. Barnes?

1           A.     I do not know the answer to that.

2           Q.     Would you have told him if he heard the  
3 complaint, too?

4           A.     Yes. I would have said that she has said  
5 it again.

6           Q.     Did you tell him that she said it again to  
7 me?

8           A.     I remember saying to him that she had said  
9 it and expressing to him that I was surprised  
10 because I did not know at the time that her child  
11 had been the child that was the subject of the  
12 complaint. I truly did not know that.

13          Q.     Do you recall in the termination  
14 hearing -- you were there, correct?

15          A.     It was not a hearing.

16          Q.     The call?

17          A.     The conference call where Dr. Barnes told  
18 her her position was not going to exist.

19          Q.     Did she also in that call say, this is  
20 retaliation?

21          A.     I honestly don't remember. She said many  
22 things in that call. She was very, very upset, very  
23 upset in that call. I honestly don't remember all  
24 the things that she said. I do remember that she  
25 said -- no, I don't remember that she used the word

1 "retaliation" in that call. I just remember she was  
2 very upset.

3 Q. Do you recall Chris Barnes telling her in  
4 that conversation that it was not retaliation?

5 A. I don't recall off the top of my head. If  
6 you have a transcript or an audio...

7 Q. I do. Have you listened to the transcript  
8 of the audios?

9 A. No.

10 Q. Have you heard them at all?

11 A. No.

12 Q. Do you recall telling Jane Doe that she  
13 should not complain about the retaliation?

14 A. No.

15 Q. Did you tell her that she -- did you take  
16 her complaint of retaliation to be something that's  
17 more personal to her as opposed to a reorg?

18 A. I don't think that I -- I don't think that  
19 I put those two things together, necessarily. She  
20 was -- she was struggling -- she continued to say  
21 that Dr. Battle was angry with her or Dr. Battle  
22 didn't like her or Dr. Battle was doing this for a  
23 personal reason, and my response to her was that I  
24 had never heard Dr. Battle say that.

25 Q. And would you agree that a personal reason

1 would include, could include her complaints about  
2 the lesson that her child was taught?

3 A. Personal reasons can include many things.

4 Q. Including personal retaliation --

5 A. Including feelings --

6 Q. -- including --

7 A. -- of retaliation, yes.

8 Q. Okay. (playing audio.)

9 Do you recognize that voice?

10 A. Yes, ma'am.

11 Q. Who is that?

12 A. That's Dr. Chris Barnes.

13 Q. And what does this sound like to you?

14 (playing audio.)

15 Whose voice is what? Is that Jane Doe?

16 (playing audio.)

17 Do you recognize this?

18 A. Yes.

19 Q. What is this?

20 A. This is the video conference that  
21 Dr. Barnes had with Jane Doe.

22 Q. And were you present?

23 A. I was there listening.

24 Q. I want to move on. I'm not going to move  
25 on to the tail end. Because this goes on for ten

1 minutes. At the tail end, does this sound like the  
2 same conversation? (playing audio.)

3 Let me stop you there. Was this a  
4 conversation where you could view Jane Doe? Was it  
5 a Zoom?

6 A. It was a Teams call or a Skype call or  
7 whatever we had at the time.

8 Q. Could you see her?

9 A. I think so. I think I remember that we  
10 could see her. Not everybody that we talked to had  
11 a camera, but I think I remember that Jane Doe did.

12 Q. Did she appear to be upset to you?

13 A. She was definitively upset.

14 Q. And was she crying?

15 A. Yes.

16 Q. Let's go on. (playing audio.)

17 Let me stop a second. Did you hear that  
18 portion of the tape?

19 A. I did.

20 Q. And that was from about nine minutes to  
21 about 11 minutes on this tape.

22 Ms. Spencer, did you hear Ms. Jane Doe say  
23 that she thought this was retali- and then she kind  
24 of stopped it, and she said enough that Chris Barnes  
25 understood that she thought she was being retaliated

1     against, correct?

2             A.     He said if he thought it were retaliatory.

3             Q.     Okay.   Meaning Chris Barnes knew that Ms.

4     Doe was claiming that the action was retaliatory.

5     He understood what she was saying?

6             Let me go just a little further with that  
7     question.   Did you understand that the issue of  
8     whether or not she was being retaliated against came  
9     up in this termination conversation?

10            A.     So I would not characterize it as a  
11     termination conversation given that he did talk to  
12     her about coming to talk to him and finding a new  
13     place.   She kept saying, is someone mad at me, and  
14     Dr. Barnes said, this is not about you, it's about  
15     resources and how we efficiently run the district.

16            Q.     You understood in your conversations with  
17     Jane Doe that she thought she was being retaliated  
18     against for the Let's Make Slave complaint she made,  
19     collect?

20            A.     She said that later.

21            Q.     And you understood that she was making  
22     that complaint, correct?

23            A.     Yes.

24            Q.     And was that later the same day or  
25     later -- a week later?

1           A.     I honestly don't remember.

2           Q.     Okay. Was it sometime within that time  
3 frame?

4           A.     It was in that time frame.

5           Q.     And you went back to Mr. Barnes and said  
6 she's making that complaint again of retaliation,  
7 correct?

8           A.     And I said to Dr. Barnes, she has said she  
9 thinks this is retaliation for a complaint that she  
10 made.

11          Q.     And what did he say to you?

12          A.     And he said, then we'll investigate that.

13          Q.     Do you know if it was investigated?

14          A.     Honestly, at that point, I was out of it.

15          Q.     Who would have done the investigation?

16          A.     Ms. Zander.

17          Q.     Did Ms. Zander ever contact you to ask you  
18 any questions about what Jane Doe told you about  
19 retaliation?

20          A.     I don't remember that she did.

21          Q.     Did you direct Jane Doe to any other  
22 person or department at Metro schools to file a  
23 complaint?

24          A.     I would have said to her, if you think  
25 that there is valid retaliation, you should go talk

1 to Mary Ellen Zander in employee relations.

2 Q. Did you tell Ms. Doe that?

3 A. I honestly do not remember if I said it to  
4 her like that.

5 Q. Now, in the call that you had with Jane  
6 Doe and Mr. Barnes, do you recall him telling her  
7 that she could apply for other jobs at Metro  
8 schools?

9 A. Yes.

10 Q. Would you agree that in that conversation,  
11 there was not any discussion about transferring her  
12 to another position?

13 A. I do not believe that there was.

14 Q. And if she applied for another job and did  
15 not get another job, she basically was gone from  
16 Metro schools, correct?

17 A. I remember him saying, we'll find you a  
18 place.

19 Q. Did he find her a place?

20 A. She became a teacher at J.T. Moore.

21 Q. Did Chris Barnes find that for her?

22 A. I don't know that Dr. Barnes specifically  
23 found that for her, but that's the job that she had.

24 Q. Did you or Chris Barnes find any job for  
25 Jane Doe?

1           A.     She applied for any number of jobs, but I  
2 did not find her a job.

3           Q.     She applied for about 30 jobs, didn't she?

4           A.     I don't know how many, but there was a  
5 number.

6           Q.     Okay. Do you know her credentials, her  
7 educational background?

8           A.     Not off the top of my head.

9           Q.     Do you know what her job performance was  
10 like when she was at Metro schools?

11          A.     I honestly don't. I had met her maybe  
12 three times before this particular conversation.  
13 And the first two times, I thought she was someone  
14 else.

15                 MS. STEINER: Exhibit 1 is going to be  
16 this -- it's called termination on our records with  
17 Chris Barnes, and we'll make that Exhibit 1.

18                         (WHEREUPON, the  
19                                 previously-mentioned document was  
20                                 marked as Exhibit Number 1.)

21           MR. FOX: No objection to it being  
22 exhibited. Our only objection is the use of  
23 termination, use of the word "termination" in this  
24 case.

25                 MS. STEINER: The court reporter can name

1 it however you think is appropriate. We've got  
2 Chris Barnes' termination on it just so we can  
3 figure out what it is. Maybe it should just be  
4 Barnes. Audio recording I. Is that okay, Brook?

5 MR. FOX: Yes.

6 BY MS. STEINER:

7 Q. Okay. Tell me again what Chris Barnes  
8 said to you when she said -- when you told him Jane  
9 Doe was claiming -- I believe you said for the  
10 second time, that she was being retaliated against  
11 for that complaint about the lesson, let's Make a  
12 Slave. What did he say?

13 A. I believe that what I said was, if she had  
14 said it a second time, I would have gone back to  
15 Dr. Barnes, but I said to him, she thinks that she  
16 is being retaliated against because of something  
17 that had to do with her child that I didn't even  
18 know had happened. And Dr. Barnes said, then we  
19 need to deal with the retaliation piece as an  
20 investigation.

21 Q. And did you know that Jane Doe thought Dr.  
22 Battle was the one that was engaging in the  
23 retaliation?

24 A. What I remember that she said to me was,  
25 is Dr. Battle mad at me, is she angry at me. That's

1 what has stuck with me.

2 Q. And did you take that to mean that she  
3 thought Dr. Battle was the one engaging in the  
4 retaliation?

5 A. Not so much as I -- again, I didn't know  
6 her well. I didn't know that this had gone on. It  
7 was -- I kept saying, she has never said -- I have  
8 never heard her say that she is angry with you about  
9 something. I just -- I wasn't -- I didn't really  
10 know where she was coming from with that.

11 Q. Did you tell Dr. Battle what Jane Doe had  
12 said?

13 A. I don't believe I've ever talked to Dr.  
14 Battle about it.

15 Q. Did you know that she applied for the  
16 position of restorative practice?

17 A. The Restorative practice assistant job?

18 Q. Yes.

19 A. Yes.

20 Q. Who was the person who would made the  
21 decision about whether or not they were hired into  
22 or not hired into that position?

23 A. The hiring manager for restorative  
24 practice is Anthony Hall.

25 Q. Okay. Was there a Gloria Hall?

1 A. Gloria Hill.

2 Q. Hill. Was she over that position?

3 A. She was probably the recruiter for that  
4 position.

5 Q. What department did she work at?

6 A. She worked in human resources.

7 Q. And what about Ms. Johnson?

8 A. Angela Johnson was the HR manager.

9 Q. And how did her job duties mesh with that  
10 of Ms. Hill?

11 A. So Gloria would have been the TeleNet  
12 position partner who worked on support hub jobs.  
13 Angela was the HR manager for support hub, so they  
14 worked together to fill support hub positions.

15 Q. And would they recommend that someone be  
16 hired in a particular position or can they hire  
17 someone in a particular position?

18 A. They don't make the recommendation. The  
19 hiring manager, which is the person in the  
20 department who wants to hire a person, makes the  
21 recommendation.

22 Q. And then it goes up to --

23 A. It goes to them for processing.

24 Q. For processing. And then they either  
25 approve or don't approve it, correct?

1           A.     They process it.

2           Q.     Now, were you aware that Jane Doe applied  
3 for the position of restorative practice?

4           A.     Yes, I did know that.

5           Q.     Were you aware that I believe Anthony Hall  
6 wanted to hire her in that position?

7           A.     Yes.

8           Q.     And were you aware that Ms. Hill and Ms.  
9 Johnson had approved that?

10          A.     I don't know that they had approved it. I  
11 know that there was a lot of conversation back and  
12 forth about it.

13          Q.     Okay. Why was there conversation back and  
14 forth about it?

15          A.     Because the salary that Jane Doe would  
16 have earned would have far exceeded the salaries of  
17 anyone else in that job, and when that happens, it's  
18 the hiring manager's responsibility to say -- or the  
19 HR manager's responsibility to say to the hiring  
20 manager, this person's salary is going to throw  
21 your -- what we call salary equity, the average, if  
22 you will, of all of the other people in a role, and  
23 it's going to affect your budget, is that what you  
24 want to do.

25          Q.     Okay. And who did you say that to?

1           A.     The HR manager would say it to the hiring  
2 manager.

3           Q.     Okay. And do you recall any statement  
4 being made by you to the HR managers or the hiring  
5 manager or anybody that they could not hire Jane Doe  
6 into that position because she had a lawsuit against  
7 the district?

8           A.     No, I did not say that.

9           Q.     Would you agree that if you did say that,  
10 that is retaliation?

11                   MR. FOX: Objection to the form.

12 BY MS. STEINER:

13           Q.     Was that nod yes?

14           A.     You can't not hire somebody because  
15 they're suing the district.

16           Q.     And as of October 10, 2020, did you know  
17 that Ms. Doe had filed a lawsuit on behalf of her  
18 son against the district?

19           A.     On behalf of her son?

20           Q.     Yes. Well, did you know she was making a  
21 claim against the district?

22           A.     I knew she was making a claim against the  
23 district. I don't know that I necessarily knew it  
24 was on behalf of her son.

25           Q.     And did you know she was making a claim by

1 October 10th of 2020 that she was being retaliated  
2 against?

3 A. Probably.

4 Q. Now --

5 A. You're asking about a specific date and  
6 that's really what's throwing me off.

7 Q. Okay. Now, restorative practice, what's  
8 the typical pay there?

9 A. Restorative practice assistants are  
10 generally paid -- they are a pay grade nine, which  
11 starts right now around roughly \$20 an hour.

12 Q. About 40,000 a year?

13 A. Roughly.

14 Q. How much does a teacher make?

15 A. A starting teacher makes 45.

16 Q. And how much would Ms. Doe have made in  
17 this restorative practice position?

18 A. She was -- it was going to be way up at  
19 the top end of the range.

20 Q. Which is what?

21 A. In fact, it might have exceeded the top of  
22 the range. I'm trying to remember whether it would  
23 have exceeded the top of the range. That could have  
24 been the issue. But that position goes from about  
25 70,000 -- that pay grade, not that position, that

1 pay grade goes -- not 70, about 40,000 to probably  
2 about 55 or 60 off the top of my head.

3 Q. What is the pay grade number?

4 A. It's pay grade nine. I would need a pay  
5 grade in front of me to actually answer that  
6 question.

7 Q. Okay. Now, was there any sort of a rule  
8 or regulation that -- do you know if Jane Doe was  
9 considered salary or support when she was director  
10 of school choice?

11 A. It's my recollection that that was a  
12 support role and she was salaried because she was a  
13 director. I believe it was a support role.

14 Q. If a support person loses their job  
15 because of any sort of a reduction, are they  
16 supposed to be put into -- if their job is  
17 eliminated, are they supposed to be put into a  
18 position with the closest pay as to what she  
19 received?

20 A. There is not a rule that says that if a  
21 support employee loses their job we have to place  
22 them anywhere. What the compensation policy says or  
23 the compensation procedure says is, that if an  
24 employee moves between pay grades, a promotion is  
25 generally 10 percent, but a person cannot be paid

1 below the minimum of the pay grade. They cannot be  
2 paid above the maximum the of pay grade.

3 Q. Let me show you this. Let me see if I can  
4 show you this. Hang on a second. You know what,  
5 let me just do it this way. Why don't we do it this  
6 way because you see this.

7 Can you see this? This is probably easier  
8 any way. Do you recognize this document? Do you  
9 recognize this? Wait a second. Is this the support  
10 employee handbook?

11 A. It is.

12 Q. Effective July 1st, 2015?

13 A. That's what it says.

14 Q. Let me show you Page 14. Does this appear  
15 to be accurate? I'll slow down if you want me to.

16 A. It looks like the support employee  
17 handbook.

18 Q. Page 14 has something at a very top of the  
19 page called Reorganizations and Displacements. Is  
20 that correct?

21 A. Yes. That's there.

22 Q. Okay. And does that say in a  
23 reorganization or displacement any affected employee  
24 who is retained will be placed at the step closest  
25 to but not less than their current rate of pay?

1           A.     Provided that they can't make more than  
2     the maximum for the pay grade of the position to  
3     which they are placed, yes.

4           Q.     Okay. And does that mean that they need  
5     to be placed at the step closest to their current  
6     rate of pay?

7           A.     So a support employee going into a support  
8     employee role, yes.

9           Q.     Okay. And Jane Doe was support, correct?

10          A.     She was.

11          Q.     Can you tell me who at Metro schools was  
12     responsible for seeing that she would be placed at  
13     the step closest to but not less than her current  
14     rate of pay? Who handled that?

15          A.     So the HR manager that would have been  
16     responsible for any job that she had applied for  
17     that was on the support pay scale at the time.

18          Q.     Does this, in the handbook, say anything  
19     about she had to apply for the job?

20          A.     So that actually, in the reorganizations  
21     and displacement affected who is retained will be  
22     placed at the step closest to but not less than  
23     their current rate of pay. That is the support  
24     employee handbook, so it applies to support  
25     positions.

1 Q. Okay. So as it's applying to support  
2 positions, can you tell me who at Metro schools was  
3 responsible for seeing Jane Doe was placed at a step  
4 closest to but not less than her current rate of  
5 pay?

6 A. Had she been placed in a support position,  
7 the HR manager would have made sure that that  
8 happened.

9 Q. Who was that?

10 A. Depending on what support position it was,  
11 it could have been any one of them.

12 Q. I want to know who at Metro schools  
13 said -- was told, Jane Doe has lost her job because  
14 of reorg. She is support, so we need to place her  
15 at the step closest to her current rate of pay. Who  
16 did that? Did anybody?

17 MR. FOX: Objection to the form.

18 THE WITNESS: In a case like that, if a  
19 support employee is placed into another support  
20 role, they would be placed at the step closest to or  
21 not less than their current rate of pay. In the  
22 situation that she was in, she went to a  
23 certificated role, which is a different pay scale.

24 BY MS. STEINER:

25 Q. I want to ask you this, though. My

1 question is very different. Did anyone at Metro  
2 schools place her in a support role that was closest  
3 to but not less than her current rate of pay? And  
4 did anyone at Metro schools even look for that  
5 position that you know of?

6 MR. FOX: Objection to the form.

7 THE WITNESS: It is my understanding that  
8 she was placed into a teaching position because she  
9 was a tenured teacher.

10 BY MS. STEINER:

11 Q. Did anyone -- I'm going to ask this again.  
12 Listen to this carefully. Did anyone at Metro  
13 schools make any effort to see whether or not Jane  
14 Doe would be placed at the step closest to but not  
15 less than her current rate of pay?

16 MR. FOX: Objection to the form.

17 BY MS. STEINER:

18 Q. If so, who was it?

19 A. We didn't place any of those people.

20 Q. I want to know about Jane Doe.

21 MR. FOX: Objection to the form.

22 BY MS. STEINER:

23 Q. Did anyone at Metro schools look to see  
24 where she could be placed in a support position that  
25 was the closest to her current rate of pay?

1           A.     She was offered the opportunity to  
2 interview for any number of positions.

3           Q.     Did anyone from Metro schools look to see  
4 where she could be placed -- that is the last time  
5 I'm going to ask you this, okay? Did anyone from  
6 Metro schools look to see whether or not there were  
7 any positions where she could be placed that were  
8 support positions that were closest to her current  
9 rate of pay --

10                   MR. FOX:  Objection to the form.

11 BY MS. STEINER:

12           Q.     -- that you know of?

13           A.     Not that I know of.

14           Q.     Okay. Did anyone tell Jane Doe, hey,  
15 you're support, so we have to place you at the step  
16 closest to but not less than your current rate of  
17 pay?

18                   MR. FOX:  Objection to the form.

19                   THE WITNESS:  I don't know the answer to  
20 that question.

21 BY MS. STEINER:

22           Q.     Do you know what her current rate of pay  
23 was when she was a director of school choice?

24           A.     Not off the top of my head.

25           Q.     Does about 115,000 a year sound about

1 right?

2 A. That would have been on the director pay  
3 scale.

4 MS. STEINER: Let's have this support  
5 staff handbook marked Exhibit Number 2.

6 MR. FOX: No objection.

7 (WHEREUPON, the  
8 previously-mentioned document was  
9 marked as Exhibit Number 2.)

10 BY MS. STEINER:

11 Q. What pay scale was she on when she was  
12 director of school support, what was her number?

13 A. Director of school choice?

14 Q. School choice.

15 A. Directors are pay grade 15.

16 Q. Okay. Did anyone tell Jane Doe, you can't  
17 have this position because you're at a higher pay  
18 scale?

19 A. I don't know.

20 Q. If Jane Doe had gotten the position of --  
21 if she had gotten the position of restorative  
22 practice, did anyone contact her to tell her the pay  
23 for this position is less, will you take less?

24 A. I don't know.

25 Q. Did you know that the teaching position

1 she was placed in was much lower than what she made  
2 as director of school choice?

3 A. Yes.

4 MR. FOX: Objection to the form.

5 BY MS. STEINER:

6 Q. Do you know what she made as a teacher?

7 A. I don't know what she makes as a  
8 teacher -- or made as a teacher.

9 Q. Okay. Is the teacher salary running -- do  
10 you know what grade pay she is on as a teacher?

11 A. It would depend on what her degree is.  
12 The teachers are paid based on their degrees.

13 Q. If they had chosen to hire her in  
14 restorative practice in that position, was there  
15 anything preventing that?

16 A. There wasn't anything to prevent that. We  
17 just have an obligation to say to the department,  
18 here are the circumstances, you decide.

19 Q. And what did you say about the  
20 circumstances?

21 A. We said that her salary would be far in  
22 excess of all of the other restorative practice  
23 assistants, and did they have the budget for that.

24 Q. And did you tell them how much in excess?

25 A. Angela would have told them that.

1 Q. Did you discuss that with Angela?

2 A. I believe that Angela and I did have a  
3 conversation about that.

4 Q. Is that Angela Johnson?

5 A. Yes.

6 Q. Did you also tell Angela Johnson that you  
7 didn't want her hired in that position because she'd  
8 filed a lawsuit?

9 A. I do not remember saying that.

10 Q. Did you tell Ms. Johnson you did not want  
11 her in that position because she had made a claim of  
12 retaliation?

13 A. I do not remember saying that.

14 Q. Did you tell Ms. Johnson that you did not  
15 want her in that position because she had complained  
16 about the Let's Make a Slave lesson given to her  
17 child?

18 A. I do not remember saying that.

19 Q. If Ms. Johnson says that you said that,  
20 would you dispute it?

21 A. Yes.

22 Q. Okay. Did you know that it was said in HR  
23 that you said you cannot hire Jane Doe because she  
24 has a lawsuit?

25 A. No.

1           Q.     Okay.  If Jane Doe had gone into the  
2     restorative practice position, how much would she  
3     have been paid?

4           A.     I don't remember.  I just remember it was  
5     close to the top of the pay grade.

6           Q.     And that's pay grade 9?

7           A.     Yes.

8           Q.     Okay.  Hang on.  Does the director of  
9     schools have to be honest with what she tells the  
10    employees with regard to whether or not they have  
11    their jobs for the next year, does she have to be  
12    honest, does she have to give them an accurate  
13    reason for why they are no longer employed or they  
14    have lost their particular position at Metro  
15    schools?

16          A.     I don't know that there is a policy that  
17    says that she has to tell them why.

18          Q.     Okay.  But she has to be honest about  
19    whether or not it's a nonrenewal or transfer or an  
20    elimination of the position, correct?  She should be  
21    honest.

22          A.     We should all strive to be honest in our  
23    dealings and our communications.

24          Q.     Did you know Dr. Bailey who was principal  
25    at White's Creek?

1 A. I do not know Dr. Bailey.

2 Q. Did you know Coach Battle?

3 A. No. I do not know Coach Battle.

4 Q. Did you know Dr. Battle's brother was a  
5 coach?

6 A. I do know it. I did not know it until  
7 after an incident.

8 Q. Okay. Was the incident when he allegedly  
9 or when he beat up the parent?

10 A. When he allegedly struck a parent.

11 Q. So you knew back when that occurred that  
12 Coach Battle was Dr. Battle's brother?

13 A. Yes. I found out after it happened that  
14 he was related to Dr. Battle.

15 Q. What was Dr. Battle's position when this  
16 occurred?

17 A. As I recall, she was an associate  
18 superintendent.

19 Q. And do you know whether or not, as an  
20 associate superintendent, did she have supervisory  
21 authority over Dr. Bailey, who was the principal at  
22 White's Creek?

23 A. If my memory serves, Dr. Battle had the  
24 southeast clusters, which would not have included  
25 White's Creek.

1 Q. Were you aware -- did this incident happen  
2 in 2018 or 2017 -- 2018, does that sound right?

3 A. Somewhere in that. I honestly couldn't  
4 tell you the date.

5 Q. When the incident occurred, do you recall  
6 any discussion about Dr. Battle wanting to retaliate  
7 against Dr. Bailey?

8 A. No.

9 Q. Do you recall any complaints made to HR  
10 about the retaliation against Dr. Bailey by Dr.  
11 Battle?

12 A. Against Dr. Bailey? No.

13 Q. Do you recall any complaints of  
14 retaliation by Dr. Battle against Dr. Bailey?

15 A. No. But I would not have known about  
16 things like that. Those are outside the purview of  
17 the work that I do.

18 Q. Did you know by any chance, and you may  
19 not, but did you know that the complaints were taken  
20 as high as Dr. Joseph?

21 A. I didn't know there were complaints, so I  
22 don't know.

23 Q. Do you know whether or not there were any  
24 parameters put around Dr. Battle's actions so that  
25 she could not retaliate?

1           A.     I don't know the answer to these  
2 questions.

3           Q.     Okay. Did you have any dealings with the  
4 issue regarding -- let me see if I can find it. Did  
5 you know that Dr. Battle was angry with Dr. Bailey  
6 for nonrenewing her brother?

7           A.     No.

8           Q.     Did you know Coach Battle was nonrenewed?

9           A.     This -- there was a board meeting where  
10 there was a bunch of protests, and I can't remember  
11 whether it was about a disciplinary action or a  
12 nonrenewal, but it was -- I mean, it was a board  
13 meeting, it wasn't like somebody said to me, they're  
14 nonrenewing Coach Battle.

15          Q.     What happened at that board meeting, best  
16 you can recall?

17          A.     There were parents with varying opinions,  
18 as happens at every board meeting.

19          Q.     And varying opinions about what?

20          A.     About Dr. Battle being -- or not Dr.  
21 Battle. Coach Battle being wonderful and good for  
22 the kids and Coach Battle allegedly having a  
23 physical altercation with a parent.

24          Q.     Did you know there was also an allegation  
25 that he had mishandled funds?

1 A. No, ma'am.

2 Q. I believe you've already testified to  
3 this, but I just want to make it clear. If Coach  
4 Battle is nonrenewed and he reports to Dr. Bailey,  
5 is Dr. Bailey the principal responsible for making  
6 the decision about the nonrenewal?

7 A. In general, yes, that's how that would  
8 work.

9 Q. And then it goes to HR for approval,  
10 correct?

11 A. Yes.

12 Q. Do you know whether or not that particular  
13 nonrenewal went up to Shawn Joseph?

14 A. I don't. Nonrenewals, in general are  
15 supposed to go to the director just so the director  
16 knows.

17 Q. Okay.

18 A. I helped put the process together, but I  
19 don't administer the process.

20 Q. Okay. Now, were you aware of the slew of  
21 lawsuits that were filed about 2017 against Metro  
22 schools?

23 A. Yes.

24 Q. Okay. And besides Dr. Garcia, there were  
25 multiple other lawsuits, correct?

1 A. Correct.

2 Q. And one dealt with a principal, didn't it?  
3 Did it not?

4 A. I believe so.

5 Q. Who was the principal, what was his name?

6 A. I believe there was a lawsuit by  
7 Dr. Braden.

8 Q. Against Dr. Braden, correct?

9 A. Yes.

10 Q. How do you know about that?

11 A. I heard about it on the news.

12 Q. Did you hear about it in your office?

13 A. Peripherally. Again, those are things  
14 that are outside the work that I do. I deal with  
15 employee data, employee relations issues do not live  
16 in my world.

17 Q. Did you know whether or not Dr. Battle was  
18 the superintendent for that area?

19 A. I honestly don't know whether she was or  
20 not.

21 Q. Did you hear any discussion that Dr.  
22 Battle did not investigate the complaints of sexual  
23 harassment against Braden because he was her teacher  
24 when she was in school?

25 A. I don't know that I've ever heard that.

1 Q. Do you recall the individuals who  
2 complained about the sexual assault or reported the  
3 sexual harassment all getting fired?

4 A. What I remember about that case is almost  
5 entirely what you read in the news.

6 Q. Okay.

7 A. Again, I don't deal in employee relations  
8 issues.

9 Q. Did you have any discussions with any  
10 other hiring individuals at Metro schools about any  
11 application of Jane Doe?

12 A. She applied for a number of positions that  
13 were open. She interviewed for several of them. We  
14 were trying to keep track of who had applied for and  
15 interviewed for, you know, everything.

16 Q. Do you recall any other hiring person  
17 saying they wanted to hire Jane Doe, outside  
18 Mr. Hall, Anthony Hall, I believe?

19 A. I don't know that there was any other  
20 recommendation for hire, if that's what you're  
21 asking.

22 Q. Can you tell me why, do you have any idea  
23 why someone, assuming that they're qualified and has  
24 applied for so many positions, I think she applied  
25 for like 30, didn't get a single one?

1 A. That's really hard to say.

2 Q. Okay. Did you know by any chance that  
3 Pippa Meriwether was Dr. Bailey's supervisor, and  
4 that she approved the nonrenewal of Coach Battle?

5 A. If Dr. Meriwether was the associate  
6 superintendent or the community superintendent for  
7 that area, then it would have been her  
8 responsibility to approve that.

9 Q. Do you know why -- do you know who made  
10 the decision to reorg central office?

11 A. Which time?

12 Q. In the year -- it's been reorg'd a lot,  
13 correct? If that yes? You're laughing. you're  
14 smiling now. Is that correct?

15 A. Yes.

16 Q. Is it a fair statement that just about  
17 every year it gets reorg'd somehow or another,  
18 correct?

19 A. I don't know that I would say every year,  
20 but certainly as superintendents or directors of  
21 school change, things change, and as efficiencies  
22 are found, things might move.

23 Q. Now, do you know why central office was  
24 reorg'd from the year 2019 to 2020 to the 2020, 2021  
25 school year?

1           A.     It was my understanding that Dr. Battle  
2 was looking for efficiencies, looking for a more  
3 streamlined reporting structure in the division of  
4 schools.

5           Q.     Who told you that?

6           A.     Dr. Barnes said it multiple times.

7           Q.     Did it have anything to do with the  
8 budget?

9           A.     I believe they are also looking to save  
10 some money given to budget situation.

11          Q.     Okay. Do you know why she made the  
12 decisions she made, Dr. Battle?

13          A.     Dr. Battle and I have never talked about  
14 that.

15          Q.     Now, it's my understanding that you were  
16 on the interview panel for executive directors; is  
17 that correct?

18          A.     I facilitated about half of those  
19 interviews. I was out of town for the other half.

20          Q.     What does that mean, facilitated?

21          A.     So we were, at the time, virtual, learning  
22 to be virtual, which was not a lot of fun. What we  
23 discovered was that particularly in a situation like  
24 that, having someone who was on to make sure that  
25 all the technology worked, that the candidate got

1 in, that, you know, everything was like it was  
2 supposed to be, was easier on everyone than the  
3 person running the interview trying to do that.

4 Q. So you didn't actually score any of the  
5 candidates?

6 A. I did not.

7 Q. And do you know how the individuals were  
8 picked who would serve on the panel?

9 A. I believe that Dr. Barnes was looking for  
10 a cross section of administrators.

11 Q. Do you know if Mr. Barnes served on the  
12 panel?

13 A. Dr. Barnes was on the panel.

14 Q. Do you know, if you're the facilitator,  
15 you're trying to make sure everyone is hooked up  
16 right and everyone can hear everything, correct?

17 A. Yes.

18 Q. Did you also make sure that the scores  
19 were coming in right?

20 A. I did not have access to the scores.

21 Q. Okay. Did you know that some of the  
22 scores were missing?

23 A. I didn't have access to them, so there's  
24 no way for me to know that.

25 Q. Do you know today that some of the scores

1 are missing?

2 A. Missing, as in somebody didn't score?

3 Q. They're gone. Nobody can give you where  
4 these scores are or what they were. They're gone.  
5 Did you know that?

6 A. In terms of -- I do know what you're  
7 talking about. So Dr. Barnes created the scoring  
8 forms using a Microsoft platform called Microsoft  
9 Forms, which was attached to his active directory  
10 account at MNPS.

11 Q. Okay.

12 A. When Dr. Barnes left, and his active  
13 directory account was disabled, then all of that  
14 forms data went away.

15 Q. So that would be all the scores?

16 A. If he did not save them anywhere else, it  
17 would be everything.

18 Q. Okay.

19 A. And I think we didn't realize that would  
20 happen. I figured out it had happened because we  
21 also lost the link to our exit surveys, which he had  
22 created.

23 Q. Did you go back in and un-disable his  
24 account?

25 A. I did not.

1 Q. Okay. So did anyone go back in to try to  
2 recreate his account?

3 A. I don't know.

4 Q. Okay. Do you know whether or not you can  
5 go back in and -- did anyone call Microsoft to say,  
6 hey, we've got an issue here, we want this account  
7 back up again?

8 A. I don't know.

9 Q. When did Dr. Barnes leave?

10 A. In October of '21.

11 Q. So by the time -- so this happened  
12 sometime after he had left in October of '21,  
13 correct?

14 A. Yes.

15 Q. So before October of 2021, his account had  
16 not been disabled and you should have been able to  
17 pull up those scores, correct?

18 A. Absent any other technology issue that I  
19 would not have known about.

20 Q. Okay. Do you recall Dr. Barnes having  
21 issues logging into the account?

22 A. Dr. Barnes had issues logging into his  
23 account frequently.

24 MS. STEINER: Can we stop for just a  
25 second? We're going to break for lunch.

1 (Lunch break observed.)

2 BY MS. STEINER:

3 Q. Ms. Spencer, I'm trying to pull up the pay  
4 scales the best we can, for the support. Let me  
5 back up a second and show you where I got this.  
6 This is on Metro Nashville --  
7 mnps.org/careers/resources, okay? Is this Metro  
8 schools' website?

9 A. It is.

10 Q. Would this be the support employee salary  
11 schedule?

12 A. For this year, yes.

13 Q. I just want to talk to you just briefly  
14 about this for this year and then we'll see if we  
15 can find it for last year. I think you said she  
16 would have been on step nine; is that correct?

17 A. So the way that the pay scales are  
18 constructed, what you see across the top where it  
19 says SCH001 to SCH016, those are the pay grades.  
20 Down the side where it says 1 through 26, those are  
21 the steps within the grades.

22 Q. So she would have been SCH --

23 A. Are we talking about the restorative  
24 practice assistant?

25 Q. Yes.

1           A.     Those are SCH009, what we call pay grade  
2     nine.

3           Q.     And that would have been this year, and it  
4     runs anywhere from 19.99 to 29.98; is that correct?

5           A.     Correct.

6           Q.     So it runs up to about 60,000?

7           A.     Are you calculating on 2080 hours a year?

8           Q.     Yeah.

9           A.     Remember, any position that's not 12  
10    months, you have to calculate on the number hours  
11    per year that the position is.

12          Q.     Okay. Okay. So would restorative  
13    practice be counted as nine months of the year?

14          A.     I believe restorative practice assistants  
15    fall into what we call ten-month employees, which is  
16    a school year.

17          Q.     So they only get paid for ten months?

18          A.     Yes.

19          Q.     And the school choice was paid for 12  
20    months?

21          A.     That was a 12-month position.

22          Q.     Where was school choice on this schedule?

23          A.     If it was a director position, it was on  
24    pay grade 15.

25          Q.     Okay. That's over here from 100,000 to

1 150,000, correct?

2 A. Yes.

3 Q. So if she, Jane Doe, had gone to the  
4 restorative practices position, she would have been  
5 in grade SCH009, correct?

6 A. If she had gone from that position --  
7 well, if she had been hired as a restorative  
8 practice assistant, period, it would have been pay  
9 grade nine.

10 Q. So she would have received pay somewhere  
11 from 19.99 to 29.98 per hour, correct?

12 A. That is the pay grade for that job.

13 Q. And she would not have been paid off that  
14 scale, correct?

15 A. That is correct. We do not pay people  
16 over the top of the pay grade.

17 Q. Okay. So she would have been -- if she  
18 had been hired, she would have made somewhere  
19 between 19.99 and 29.98 an hour, correct?

20 A. Yes.

21 Q. Okay. Do you know where she would have  
22 fallen in this pay grade?

23 A. I don't remember exactly, because we were  
24 not calculating off of the original support salary.  
25 She was a teacher already when she applied, and when

1 you move from one salary schedule to another, from  
2 the certificated salary schedule to the support, or  
3 the support to the certificated, we have to go back  
4 to your current hourly rate and calculate from  
5 there.

6 Q. Okay. At the time that she was director  
7 of school choice, that was support, though, correct?

8 A. I believe that was a support job.

9 Q. And that would have been an SCH015,  
10 correct?

11 A. Yes.

12 Q. And then restorative practices would have  
13 been a SCH008, correct?

14 A. Yes.

15 Q. So she was going from SCH015 and if she  
16 had been hired as restorative practice, she would  
17 have been somewhere in SCH009, correct, because she  
18 is going from support to support?

19 A. If it had happened that way, but remember  
20 she had gone into the teaching position on the  
21 certificated scale when she applied for the RPA  
22 position.

23 Q. Okay. And what difference would that make  
24 now?

25 A. So when we move someone between the pay

1 scales --

2 Q. Uh-huh.

3 A. -- we're looking at -- first of all, we  
4 have to go back to the hourly rate to determine, you  
5 know, like-to-like.

6 Q. Okay.

7 A. And then we have to look at the number of  
8 hours per year and all that, and determine whether  
9 or not that individual would still fall into the  
10 right pay scale.

11 Q. Okay. Let's pull up then the -- hang on a  
12 second. Let's pull up -- is this the certified  
13 employee?

14 A. Yes. That's the teacher pay scale.

15 Q. Which one of these pay scales did she fall  
16 on?

17 A. I don't know, because I don't know what  
18 her degree is.

19 Q. She has a master's.

20 A. Straight master's and not a master's plus?

21 Q. No.

22 A. Then do you know how many years she has,  
23 because that's the next thing you have to know.

24 Q. Okay. If she has a master's, does it fall  
25 in the second column?

1 A. It's 201MA.

2 Q. Okay. And master's plus means?

3 A. A master's plus means you have a master's  
4 degree plus 45 hours.

5 Q. Of what?

6 A. Of additional college study.

7 Q. Okay. So anywhere on this pay scale, it  
8 looks like the top levels would be anywhere from  
9 66,000 to 82,000, correct? She does not have a PhD  
10 or EDS, so it would have been somewhere from 66 to  
11 77 at the highest level, correct?

12 A. Yes.

13 Q. Okay. So assuming that she is a teacher  
14 and she's at 66 to 77, can you tell me how that  
15 would have transferred over to be a support in  
16 restorative?

17 A. So we would have taken whatever her annual  
18 salary is and taken that down by dividing it by the  
19 number of hours per year that a teacher works to get  
20 an hourly rate.

21 Q. Okay. That would have been, for instance,  
22 if she's on the master's right here, 201MA, let's  
23 put her somewhere around 15 years, step 15, so if  
24 she was at 66,804, you divide that by what number?

25 A. Teachers are 1507.5.

1 Q. 1507.5?

2 A. Yes.

3 Q. Okay. And after you divide that, then  
4 what do you do?

5 A. So that gives you their hourly rate.

6 Q. Okay.

7 A. Then you look to see is it a promotion or  
8 demotion, and this would have been a demotion from  
9 teacher to restorative practice assistant, and then  
10 you calculate -- and the number of hours per year,  
11 we moved all of the ten-month support employees this  
12 year to 1507, so the number of hours per year should  
13 have been the same.

14 Q. So what you do is -- she was somewhere  
15 around 66,000 as a teacher, so you take the 66,804,  
16 you divide it by 1,507.5 and come up with an hourly  
17 rate of about 44, does that sound about right?

18 A. Yes.

19 Q. So what do you do with the 44.31 as the  
20 hourly rate?

21 A. So then can you go back to the support?

22 Q. Yes. Hang on. I think I can. Hang on a  
23 second. Here we go. Now, we go to the support,  
24 okay?

25 A. And what is the step 25 on pay grade nine?

1 Q. 29.98.

2 A. That's where she would have landed.

3 Q. So 29.98, so it would be a lower rate of  
4 pay?

5 A. Uh-huh.

6 Q. Is that yes?

7 A. Yes.

8 Q. Did anyone to your knowledge ask Jane Doe  
9 if she would accept that lower rate of pay?

10 A. I do not know the answer to that.

11 Q. Do you have any idea why she wanted to be  
12 restorative practices specialist?

13 A. Was it a specialist or an assistant?

14 Q. It was specialist.

15 A. There is a difference.

16 Q. What's the difference?

17 A. So I've been under the impression all  
18 morning that we were talking about a restorative  
19 practices assistant.

20 Q. No.

21 A. If it was restorative practices  
22 specialist, that is a 12-month job. I believe it's  
23 a 12-month job, and it is grade 12, so she still  
24 would have been at the top of the scale.

25 Q. But the scale does go as high as it needed

1 to go; is that correct?

2 A. Yeah. If it's a specialist job, I believe  
3 those are grade 12 jobs.

4 Q. Okay. We are going to mark the support  
5 and the certificated pay scale as the combined  
6 next-numbered exhibit. I will provide the court  
7 reporter a copy and -- it's already been done.

8 (WHEREUPON, the  
9 previously-mentioned document was  
10 marked as Exhibit Number 3.)

11 MR. FOX: No objection.

12 BY MS. STEINER:

13 Q. Okay. Now, hang on one second. Is the  
14 restorative practices specialist a higher position  
15 and duties as opposed to that of a teacher?

16 A. I think they are different in a number of  
17 ways. It would be...

18 Q. If my client Jane Doe were to testify that  
19 she believes it's higher in responsibility, would  
20 you contradict that statement?

21 A. I would say that a teacher has a  
22 responsibility for the content for a classroom of  
23 students throughout the day. A restorative practice  
24 specialist has responsibility to assist several  
25 restorative practices assistants throughout the

1 district in ensuring that students are served  
2 correctly, so from that perspective, it could be  
3 considered a higher responsibility job.

4 Q. If Jane Doe were to say the position she  
5 applied for as restorative practices specialist was  
6 going to pay more than her teaching position, would  
7 you have any reason to differ from that?

8 A. Based on the calculations we just did, it  
9 would have been right about the same.

10 Q. About the same. Now, when you told the --  
11 who was it that was in charge of approving Anthony  
12 Hall's request to hire Jane Doe in that position,  
13 what was that, did you say?

14 A. That would have been Angela Johnson.

15 Q. Okay. Did Ms. Johnson tell you that Jane  
16 Doe -- they wanted to hire her as a restorative  
17 practices specialist?

18 A. Angela told me that they wanted to hire  
19 her and that she was concerned about the salary  
20 because it was going to be so much higher than  
21 everybody else who has that job.

22 Q. Did you ask her why or how?

23 A. Well, it's part of the analysis that we do  
24 when we're moving -- when we're transferring  
25 employees.

1 Q. Did you do an analysis?

2 A. She did.

3 Q. Did she send it to you?

4 A. I don't know that she sent it to me, but  
5 we talked about it.

6 Q. Was the analysis done for restorative  
7 practices specialist or restorative practices  
8 assistant's job?

9 A. It was done for whichever job she had  
10 applied for.

11 Q. Do you know which one it was done for?

12 A. It makes more sense to me that it would  
13 have been the specialist job.

14 Q. What degrees do you need to be an  
15 assistant?

16 A. I think you need a bachelor's degree.

17 Q. Is it possible you just need a high school  
18 degree?

19 A. It's possible you just need a high school  
20 diploma, but I want to say you need a bachelor's  
21 degree.

22 Q. For a specialist position, what degree do  
23 you need?

24 A. I'd have to look at the job description.  
25 I don't know off the top of my head.

1 Q. Would you agree that Jane Doe is highly  
2 overqualified for a restorative practices assistant?

3 A. For an assistant, yes, I would say that as  
4 a teacher with more than 15 years.

5 Q. And did you think at all when you were  
6 contacted about Jane Doe in this restorative  
7 practices position that she was overqualified for  
8 the position that you were being told about?

9 A. It might have occurred to me, given that  
10 she had been a director in another department, that  
11 she was more than qualified.

12 Q. Okay. Do you believe today after  
13 reviewing all this that you were contacted about the  
14 restorative practices specialist position as opposed  
15 to the restorative practices assistant position?

16 A. Again, it makes more sense to me that it  
17 was the specialist because the assistant is a  
18 school-based position.

19 Q. And the specialist --

20 A. The specialist is a district office-based  
21 position.

22 Q. And the specialist is about the same pay  
23 and higher duties than a teacher, correct?

24 A. Once you get past the midpoint of the job,  
25 it's about the same pay.

1 Q. Okay.

2 A. It's different duties for sure.

3 Q. And I assume that when Ms. Johnson  
4 contacted you about this, you would have had access  
5 to pull up Jane Doe's job, her rate of pay and the  
6 pay scale for the specialist, correct?

7 A. That's part of what Angela would have put  
8 together. We actually have a form that we use.

9 Q. So did Ms. Johnson put that form together?

10 A. As far as I know, she did.

11 Q. Did she send it to you?

12 A. I don't remember whether she sent it to me  
13 or not, but that's what she would have used to  
14 determine the pay rate.

15 Q. Okay. And that's what she used to tell  
16 you that she was -- she would be highly over paid  
17 for the position?

18 A. That she would be at the top of the pay  
19 scale and that there are other people in that same  
20 role across the district who don't make past -- much  
21 past the midpoint if at all.

22 Q. And so the difference would have been from  
23 about the midpoint, which would be --

24 A. Step 13.

25 Q. Step 13, how much is that per hour? Do

1 you know off the top of your head?

2 A. I do not.

3 Q. Let's look it up real quick. That's  
4 certificated.

5 A. That's certificated.

6 Q. Here we go. Let's go into the support  
7 salary. Where would this be on here, 15?

8 A. 13.

9 Q. Okay. So midpoint would have been about  
10 12 to 13, which is about 42 to \$43 an hour?

11 A. I'm sorry. I can't see it. Thank you.

12 Q. Was it grade 12 or 13?

13 A. It's a grade 12.

14 Q. So 12 would be \$36.57, and 13 would be  
15 37.14?

16 A. Yes. On today's pay scale.

17 Q. And what was the pay scale that we figured  
18 out; do you recall, for teaching?

19 A. What did you say, 44 something?

20 Q. Yes. Would you agree that the difference  
21 in pay looks like it's just running may be about \$8  
22 an hour at the most, probably more akin to 7, \$7 to  
23 \$6 an hour?

24 A. Yes.

25 Q. Okay. Do you know if -- what level the

1 person they hired into that position is at?

2 A. I don't.

3 Q. Could we have the worksheet that  
4 Ms. Johnson would have prepared for Jane Doe marked  
5 the next-numbered exhibit.

6 (WHEREUPON, the  
7 previously-mentioned document was  
8 marked as Late-filed Exhibit  
9 Number 4.)

10 MR. FOX: Do we know it exists?

11 THE WITNESS: I started to say, do you  
12 have it?

13 MS. STEINER: No one produced it to me. I  
14 don't have it. I don't have access to the files.

15 MR. FOX: I don't know that --

16 THE WITNESS: I don't -- when I do them, I  
17 don't save them. It's like you're doing it just to  
18 get a number and then you move on to the next one.  
19 It's a template that we use. So I don't know  
20 whether it's saved anywhere or not, honestly.

21 MS. STEINER: I would request that if it  
22 is saved that a copy be marked Exhibit Number 4 to  
23 the deposition.

24 BY MS. STEINER:

25 Q. Did you think that there may be reasons,

1 particular reasons why Ms. Doe would want to be a  
2 restorative practices specialist that you may not  
3 know of?

4 A. Can you rephrase that?

5 Q. Did you think that there may be -- did you  
6 do any investigation to see whether or not there was  
7 any other reason out there that Jane Doe may want to  
8 be a restorative practices specialist that you  
9 didn't know about?

10 A. No.

11 Q. Do you have the ability to ask her if she  
12 will accept a salary under the pay scale?

13 A. The HR manager would have had the ability  
14 to ask her that question.

15 Q. Was she asked that question?

16 A. I do not know.

17 Q. So then Metro schools had the ability to  
18 say, Jane Doe, we would like to offer you this  
19 position but you'd be at the top rate of the pay  
20 scale, would you accept something a little bit less?

21 A. They could have asked that question. I do  
22 not know if they did.

23 Q. Do you know -- can you give me any reason  
24 today why that question would not have been asked?

25 A. So every department has to think about a

1 number of things when they make a final  
2 recommendation for hire. One of those things is,  
3 where the other people in that particular job sit on  
4 the pay scale, and whether you're going to offer  
5 someone what becomes an anomaly of an outlier kind  
6 of salary, and the other thing is, do you have  
7 enough money in your budget to cover that salary.

8 Q. Okay. My question is a little different.  
9 My question was more akin to, can you think of any  
10 reason why they would not ask Jane Doe, would you  
11 accept this position at a lower rate of pay?

12 MR. FOX: Object to the form.

13 BY MS. STEINER:

14 Q. So it's not out there as an anomaly?

15 A. It's my favorite word.

16 Q. You got it pretty good. I figured if you  
17 could, I could.

18 A. I think that the only reason they would  
19 not do that is that it's just not standard practice  
20 to ask someone to take a job at a salary lower than  
21 that.

22 Q. But there's nothing that you know of that  
23 would stop them from doing that.

24 A. I don't know that we could have told them  
25 that they couldn't do that.

1 Q. Okay. And that actually then would put  
2 the choice in Jane Doe's court, correct?

3 A. Technically, yes.

4 Q. Okay. And did you at any point tell  
5 anybody at Metro schools Jane Doe cannot be hired in  
6 any position because she has a lawsuit and/or a  
7 claim against Metro schools?

8 MR. FOX: Objection to the form.

9 THE WITNESS: I don't believe I've ever  
10 told anybody that Jane Doe cannot be hired.

11 BY MS. STEINER:

12 Q. Did you ever -- or accept a position?

13 A. No, ma'am.

14 Q. Did you ever hear Dr. Battle or anyone  
15 else in administration at Metro schools say, you  
16 cannot hire Jane Doe because she has a lawsuit  
17 against the school?

18 A. No, ma'am. I've never heard Dr. Battle  
19 say that. I don't believe I've heard anybody else  
20 say that.

21 Q. Did you ever tell Jane Doe that if she  
22 tries to make her -- the elimination of her position  
23 personal, that that will come out in places you  
24 don't want it to come out and it's going to show?

25 A. So Jane Doe and I had a conversation one

1 day, probably the fifth or sixth conversation that  
2 we had had, and every conversation, she went back to  
3 what did I do wrong, somebody is mad at me and  
4 making it all about what she thought was all about  
5 her, and I kept saying, this is essentially a  
6 business decision, this is not about you, this is  
7 not personal. What I was trying to do was counsel  
8 her in the way that she was referring to it so that  
9 it -- so that when she talked, people would think  
10 she was talking about her skills and her abilities  
11 and why people should hire her, not constantly  
12 saying, they did this to me. I was trying to help  
13 her.

14 Q. Okay. When she was saying, they did this  
15 to me, that was in context of, this is retaliation  
16 because I complained about my son?

17 A. Or this is -- why is Dr. Battle mad at me.  
18 That's what she kept asking me and kept saying,  
19 she's never told me that she's mad at you.

20 Q. But Jane Doe also told you that Dr. Battle  
21 was mad at her because she complained about the  
22 lesson that was given to her son, correct?

23 A. She did not say Dr. Battle. She just  
24 said, this is -- at one point, she said, this is  
25 about -- this is because I filed a complaint.

1 Q. Okay.

2 A. But we --

3 Q. So when you --

4 MR. FOX: Objection. Let the witness  
5 finish her answer.

6 THE WITNESS: We were trying to help her  
7 help herself in her interviews, and maybe she didn't  
8 like advice. I don't know.

9 BY MS. STEINER:

10 Q. So when you were counseling her about this  
11 help, about how -- did you tell her, you're going to  
12 hurt yourself down the road if you make this  
13 personal?

14 A. That's probably about what I said was, if  
15 you -- what I was trying to convey to her was that  
16 continually saying that this was because I did  
17 something -- somebody thinks I did something wrong,  
18 this is about anything, you know, anything about her  
19 instead of focusing on the job she was interviewing  
20 for, focusing on her skill sets, her abilities, all  
21 of those things, interviewers are listening for,  
22 what do I know how to do. That's what they want to  
23 hear, and that's what I was trying to convey to her.

24 Q. Now, can you see how Jane Doe would have  
25 taken your comment to mean, if she continues to

1 state that she's being retaliated against, that's  
2 going to hurt her down the road because she's making  
3 it personal?

4 A. Say that a different way.

5 Q. Do you see how Jane Doe could have taken  
6 your comments about how she is taking this personal  
7 when she's complaining about, this is being done in  
8 retaliation, and that she is going to hurt herself,  
9 when you stated she's going to hurt herself down the  
10 road if she makes this personal, can you see how  
11 Jane Doe took that to mean that she better not make  
12 any more complaints of retaliation?

13 A. So she made the connection in her head  
14 that what I was trying to convey to her about how to  
15 do an interview meant that it would hurt her  
16 otherwise because of her retaliation complaint.  
17 Have mercy. I can see where she would go there,  
18 yes.

19 Q. Now, is it fair that you did not use the  
20 term "interview" when you said this could hurt you  
21 down the road? You did not make the statement, in  
22 an interview, you just said, you making this  
23 personal can hurt you down the road?

24 A. I honestly don't remember the exact words  
25 that I used, but we were talking about interviews.

1 Q. Isn't it true that if you work at Metro  
2 schools and you do make a complaint of retaliation,  
3 you're not long for working at Metro schools; is  
4 that correct?

5 A. I think I have to object to the premise  
6 there.

7 Q. Okay. Let's go back and look then. Did  
8 you know that with -- who was the principal that you  
9 said earlier that had sexually harassed, was accused  
10 of sexually harassing anyone that walked in his  
11 office just about?

12 A. Principal Braden.

13 MR. FOX: Objection to the form.

14 BY MS. STEINER:

15 Q. Did you know that everyone that had  
16 complained about Braden lost their jobs?

17 A. No.

18 Q. Did you know that Vanessa Garcia  
19 complained of sexual harassment and she lost her  
20 job; is that correct?

21 A. I did know that she had complained.

22 Q. Okay. Did you know about the Vickie  
23 Crawford case where she had complained that the  
24 supervisor grabbed her head and stuck it to his  
25 crotch, and did you know that when she complained

1 about that and other things, she lost her job?

2 A. I don't know who Vickie Crawford is.

3 Q. Okay. Did you know that Scott Lindsey  
4 complained that when he wanted to do a investigation  
5 of some of the harassment complaints, he lost his  
6 job?

7 A. Mr. Lindsey lost his job for a number of  
8 reasons.

9 Q. Were you involved in that?

10 A. I wasn't involved in it, but it happened  
11 all around me.

12 Q. It happened where?

13 A. All around me.

14 Q. Did you know that he filed a lawsuit  
15 claiming he had been retaliated against?

16 A. Yes.

17 Q. Did you know that -- I believe her name is  
18 Euna McGruder filed a lawsuit against Metro schools?

19 A. I don't know Ms. McGruder.

20 Q. Okay. Did you keep track of anything that  
21 you told Jane Doe in your conversations with her?

22 A. Keep track?

23 Q. Did you keep any sort of a diary of, I  
24 spoke to Jane Doe on this day and she said X, Y and  
25 Z?

1 A. No. (playing audio.)

2 BY MS. STEINER:

3 Q. Is that your voice, Ms. Spencer, on this  
4 tape?

5 A. I think so.

6 MR. FOX: Objection. It's not a tape.

7 MS. STEINER: Audio?

8 MR. FOX: Audio.

9 THE WITNESS: I believe that is.

10 BY MS. STEINER:

11 Q. Is that Jane Doe's voice?

12 A. Yes.

13 Q. Okay. I'm going to move up to where I  
14 need to be. Hang on a second. I'm in the wrong  
15 spot. Hang on a second. Here we go. (playing  
16 audio.)

17 Let me stop you there. What did you mean,  
18 it's going to come out in places you don't want it  
19 to come out and it's going to show?

20 A. So when people are interviewing and all  
21 they talk about is negative things about their  
22 former boss or negative things about their  
23 organization or just negative things in general, it  
24 doesn't make them look like the kind of employee you  
25 want to have. You want people in an interview who

1 are positive, forward thinking, talking about their  
2 abilities, talking about what they know how to do,  
3 not talking about, they don't want me, they don't  
4 like me, whatever it is.

5 Q. Okay. Did you think that Jane Doe was  
6 going to walk in and interview for a job with Metro  
7 schools and say to the interviewer, Dr. Battle  
8 doesn't like me?

9 A. I didn't think she was necessarily going  
10 to say, Dr. Battle doesn't like me, but what I was  
11 trying to convey to her, again, I was very concerned  
12 about her, she was very upset, was to help herself  
13 to be objective about what was going on, to  
14 understand the business need and to put herself out  
15 there as positively as she could.

16 Q. When you said, that's going to come out in  
17 places you don't want it to come out, what places  
18 are you referring to?

19 A. So when people's attitudes are negative  
20 when they are feeling that things are -- when  
21 people -- that they feel that people are against  
22 them, that they feel like something has happened  
23 because of a personal reason, that tends to come out  
24 in the ways that they say things. It tends to come  
25 out in tone of voice, it tends to come out in words,

1 it shows when people think that they have been done  
2 wrong.

3 Q. Do you know of any procedure, any  
4 protection, any decision made by Metro schools that  
5 would protect Jane Doe from retaliation?

6 A. So, yes. Obviously, Jane Doe is protected  
7 by all of the statutes and all of the policies that  
8 say that we don't retaliate.

9 Q. My question is a little different. Do you  
10 know of anything that was done by Metro schools to  
11 go into the school that she was put in to tell her  
12 supervisor, you cannot retaliate against her?

13 A. So we have a policy that says you don't  
14 retaliate against employees.

15 Q. Did you know that she complained several  
16 times about retaliation at the school she was placed  
17 at?

18 A. I'm thinking, because there's a lot in  
19 this timeline, and I'm trying to think. I want to  
20 say her resignation letter definitely said that. I  
21 want to say that there might have been one e-mail  
22 that I saw previous to her resignation that said  
23 that.

24 Q. How would you have --

25 A. Might, being a big word.

1 Q. How would you have seen the e-mail, was it  
2 sent to you or did you get a copy of it or was it  
3 forwarded?

4 A. I was probably copied on something.

5 Q. How did you see her resignation letter?

6 A. Resignations come to what we call our  
7 end-employment log, and when a principal -- when a  
8 principal enters an individual who has resigned,  
9 they go into our -- it's a form, and they go in and  
10 fill out the form and they attach the resignation  
11 letter to the form, and it just so happened that  
12 that particular end-employment log, I was looking  
13 for something else and noticed that she had  
14 resigned.

15 Q. Was that in Jane Doe's file that you were  
16 looking?

17 A. No. It was in the end-employment log  
18 file.

19 Q. And when you saw she resigned, you saw  
20 that she was complaining of retaliation, correct?

21 A. Her resignation letter definitely said she  
22 was resigning because.

23 Q. Did you report that to anybody?

24 A. I made sure that chief of HR knew.

25 Q. That would have been who?

1 A. Ms. Roberge.

2 Q. Okay. And do you know of any  
3 investigation that occurred?

4 A. I don't. Again, those investigations are  
5 outside my purview.

6 Q. Okay. Should an investigation have  
7 occurred?

8 A. I would think if there was a claim of  
9 retaliation, that if there hadn't been an  
10 investigation up to that point, and I don't know  
11 whether there was, it's possible that there had  
12 already been one, I don't know.

13 Q. Now, for the executive directors, you  
14 didn't score anyone for those, correct?

15 A. No.

16 Q. Do you recall Lily Leffler's interview?

17 A. Trying to remember which ones I was there  
18 for and which ones I wasn't. Do you know what date  
19 it was?

20 Q. I'll see if I can put that up for you.

21 A. I'm sorry. I went on vacation literally  
22 right in the middle of that.

23 Q. It would have been May 22nd.

24 A. If it was May 22nd, then I would not have  
25 participated in that.

1           Q.    And even if you were present, you did not  
2 score any of the candidates, correct?

3           A.    Correct.

4           Q.    Do you know who did score Lily Leffler?

5           A.    I would hope everyone on the interview  
6 panel.

7           Q.    Do you know who, though, was on the  
8 interview panel?

9           A.    Gosh.  Elisa Norris, Dr. Barnes, Ken  
10 Stark.  I want to say there was probably at least  
11 one more.

12          Q.    Assuming that there's five scorers for Ms.  
13 Leffler, Dr. Leffler?

14          A.    Five feels right.  Five feels like the  
15 number of panelists that there were.

16          Q.    Yes.  Do you recall having five panelists?

17          A.    That feels like the right number.  I'm  
18 just trying to remember who the rest were.  David  
19 Williams was one.

20          Q.    Do you know if the interviewers were  
21 certificated?

22          A.    If Ken Stark wasn't interviewing, not all  
23 of them.

24          Q.    Do you know whether or not they were  
25 interviewing for certificated positions where the

1 individuals were going to be dealing directly with  
2 the schools?

3 A. Executive director position is a  
4 certificated position. Certificated admin position  
5 is what it's called.

6 Q. Who picked who was going to be the  
7 scorers?

8 A. I believe Dr. Barnes picked the panel.

9 Q. Do you know whether or not there was any  
10 legal requirement that the people picking the  
11 employees to go into a certificated job were  
12 certificated?

13 A. No, ma'am.

14 Q. Do you know what experience the  
15 interviewers had with the executive director's  
16 position?

17 A. All of them interact daily with those  
18 positions.

19 Q. Okay. Even if you interact daily, do you  
20 have any idea whether or not they had a good working  
21 knowledge of what an executive director did?

22 A. Well, if they interacted with them daily,  
23 yes, they would know what --

24 Q. For instance, a legal secretary may  
25 interact with a lawyer on a daily basis, but it

1 doesn't necessarily mean the legal secretary should  
2 be picking lawyers for the firm; do you see what I'm  
3 saying? Do you know whether or not the people on  
4 the panel had the skills to understand the duties  
5 required in the certificated position?

6 A. I believe that they did. They were all  
7 executives in the organization.

8 Q. Okay. But they were not all certificated?

9 A. No.

10 Q. Now, do you know -- did you say you were  
11 gone on May 21?

12 A. You said May 22nd, and if I remember  
13 correctly, I was there for the interviews on the  
14 20th and I want to say the morning of the 21st, then  
15 I was out.

16 Q. Okay. Did you hear that Chris Barnes was  
17 not available for Lily Leffler's interview?

18 A. No.

19 Q. Okay. Did you hear that Chris Barnes  
20 interviewed Lily Leffler the next day?

21 A. Like separately?

22 Q. Yes.

23 A. No. But I was out of town, too, so...

24 Q. As the facilitator, should that have been  
25 brought to your attention that it was not working,

1 the Teams meeting, and that he had to interview her  
2 separately?

3 MR. FOX: Objection to the form.

4 THE WITNESS: Since I wasn't there  
5 facilitating, I don't know why he would have  
6 necessarily told me that.

7 BY MS. STEINER:

8 Q. Were all the individuals who were allowed  
9 in for an interview, were they all qualified for the  
10 position?

11 A. Yes.

12 Q. Okay. Did you know Ms. Leffler?

13 A. I do know Ms. Leffler.

14 Q. Did you ever hear anyone complain that she  
15 had difficulty getting along with others?

16 A. I don't know that I've heard that about  
17 her.

18 Q. Okay. Did you get along with her fine?

19 A. I do get along with her fine.

20 Q. Okay. Does she seem to be professional to  
21 you?

22 A. I've had very few dealings with her, but  
23 I've not seen her act unprofessionally.

24 Q. Did you know Dr. Meriwether?

25 A. Yes.

1 Q. Did you know that she was interviewing for  
2 an executive director position which is what she  
3 used to supervisor?

4 A. Yes.

5 Q. Okay. Do you know why Chad High was  
6 contacted about this position?

7 A. I do not.

8 Q. As a facilitator, were you told that Chad  
9 High was going to be applying for the position?

10 A. Yes.

11 Q. Who told you that?

12 A. It was either Dr. Barnes or Mr. Clay, and  
13 I can't remember which.

14 Q. Did they indicate to you that he was the  
15 choice that Dr. Battle wanted for that position?

16 A. No. They called and said -- whichever one  
17 of them it was, and I cannot remember honestly which  
18 it was, but they called and said, we need one more  
19 interview set up tomorrow morning. I said, okay,  
20 who is it, and they said Chad High, so I set up the  
21 interview.

22 Q. Do you know who picked Chad High?

23 A. I don't.

24 Q. Did you know that -- do you know the  
25 procedure that's typically used when you hire

1 principals?

2 A. Yes.

3 Q. What is it?

4 A. Long and involved.

5 Q. Does it have an interview panel?

6 A. Yes.

7 Q. How many people are typically on the  
8 panel?

9 A. An interview panel for a principal can be  
10 anywhere from five or six people to -- I had at  
11 least 15, 16 on one of them.

12 Q. Any more than one where you had 15 or 16?

13 A. There were several that I had double digit  
14 numbers because they -- principal interview panels  
15 may have -- there is a central office core team,  
16 then there may be one or two executive directors.  
17 There are school employees, there are community  
18 people, there are parents.

19 Q. Did you know that Pippa Meriwether had to  
20 interview in front of about 15 to 16 panelists?

21 A. That doesn't surprise me.

22 Q. Did you know she found that to be very  
23 intimidating?

24 A. I did not know that.

25 Q. Did you know she found that to be

1 intimidating and felt like it was being done to  
2 intimidate her personally?

3 A. No, ma'am.

4 Q. Okay. Do you know anything about the  
5 disciplinary policy at Metro schools?

6 A. A little bit.

7 Q. I think we've already talked about that  
8 for principals, correct, about the plan, performance  
9 plan.

10 A. So a performance is not disciplinary.

11 Q. Okay. What is a performance plan?

12 A. A plan of assistance is not a disciplinary  
13 action. A plan of assistance is truly a plan to  
14 help an individual with whatever they're struggling  
15 with.

16 Q. And if there is not a plan of assistance,  
17 that means that the supervisor did not see that the  
18 employee was struggling in any area, correct?

19 A. I don't think that that's exactly what I  
20 said. If there is not a plan of assistance but  
21 there is a disciplinary issue, disciplinary issues  
22 are different. Disciplinary issues are that you  
23 violated policy in some way, not that you are  
24 struggling to get parent stakeholder involvement in  
25 your budget.

1           Q.    If a supervisor is having problems with  
2 the principal, they need to enter a plan of  
3 assistance, correct?

4           A.    If a supervisor sees that a principal is  
5 having difficulty with some -- some -- what I would  
6 call programmatic area, that they have difficulty  
7 planning or they have difficulty getting projects  
8 finished, then that's what a plan of assistance  
9 helps with.

10          Q.    Okay. Did anyone give you any reason why  
11 Dr. Bailey had his contract nonrenewed?

12          A.    My understanding was that Dr. Griffin felt  
13 that the achievement scores at his school were not  
14 moving in a positive direction.

15          Q.    And that's why his contract was  
16 nonrenewed?

17          A.    Yes.

18          Q.    And that --

19          A.    That's my understanding. I could be  
20 completely wrong.

21          Q.    And that was your understanding was that  
22 his contract was nonrenewed?

23          A.    I'm trying to remember if he was tenured  
24 or not. If he was tenured, it wouldn't have been a  
25 nonrenewal, it would have been that he could be

1 placed in another position. If he was not tenured,  
2 it would have been a nonrenewal.

3 Q. It would have been Dr. Battle's call,  
4 correct?

5 A. Ultimately, yes.

6 Q. And if she testified under oath she  
7 nonrenewed him, he was a nonrenewal, correct?

8 MR. FOX: Objection to the form.

9 THE WITNESS: If she said he was  
10 nonrenewed, then he was nonrenewed.

11 BY MS. STEINER:

12 Q. Do you know of anybody, or you, who looked  
13 at any position to transfer him into?

14 A. I remember looking at his licensure and  
15 seeing that his teaching certificate had expired.

16 Q. Okay. So then he could not be transferred  
17 into a teaching position, correct?

18 A. Correct.

19 Q. You knew that, correct?

20 A. After all of this happened, yes.

21 Q. After all what happened?

22 A. After all the notices were given.

23 Q. Okay. And do you know whether or not  
24 Dr. Bailey was still at -- did this occur sometime  
25 in May through June of 2020 that you found out he

1 was not licensed?

2 A. Yes.

3 Q. Did you tell anyone that?

4 A. I told Dr. Barnes that.

5 Q. And that meant that he could not be  
6 transferred into a teaching position, correct?

7 A. Right.

8 Q. So then there wasn't any need for Metro to  
9 look at transferring him into a teaching position,  
10 correct, because he couldn't do it legally?

11 A. You have to have an active teaching  
12 license in order to be a teacher.

13 Q. When you told Dr. Barnes that you could  
14 not transfer Dr. Bailey into a teaching position  
15 because he is not licensed, did Dr. Barnes agree  
16 with you?

17 A. He said, well, if he's not licensed, then  
18 he can't be a teacher.

19 Q. Okay. Vacancies, last area. It's my  
20 understanding that when you first came to Metro,  
21 there was no way to track vacancies, correct?

22 A. It was a lot more difficult than it is  
23 today.

24 Q. And you set up the procedure that you  
25 would use to track those vacancies, correct?

1           A.     I don't know that I set up the procedure  
2 to track vacancies. We've tracked vacancies using  
3 the budgeting program that we brought online two  
4 years ago.

5           Q.     Can you pull up, for instance today, and  
6 tell me how many vacancies there are at Metro  
7 schools?

8           A.     Can I clarify what you mean by vacancies?

9           Q.     Positions that are in the budget that are  
10 not filled?

11          A.     Okay. So in the budgeting program, every  
12 position on the operating budget is listed in that  
13 budgeting program either by a school or by a  
14 department, and it is listed as either vacant or it  
15 has a person in it.

16          Q.     And do you know how many vacant positions  
17 central office typically has?

18          A.     We call it support hub. Support hub  
19 encompasses bus drivers and everything else, so I  
20 honestly couldn't tell you what a typical number  
21 would be.

22          Q.     How many employees do you have in central  
23 office?

24          A.     That's hard to answer, and it's been hard  
25 to answer every way it's been asked, because central

1 office or support hub gets defined differently by  
2 different people. I can tell you how many  
3 certificated employees there are versus how many  
4 support employees there are --

5 Q. Okay.

6 A. -- but in terms of how people work in  
7 central office, I --

8 Q. How many certificated?

9 A. I looked the other day. There were 6,880  
10 certificated, 426 certificated admin, and around  
11 3,000 support employees.

12 Q. Do the support employees, they didn't all  
13 work in central office, correct?

14 A. They don't. Some of them work in schools.

15 Q. And admin, they don't all work in central  
16 office.

17 A. That includes principals and assistant  
18 principals.

19 Q. How many high schools are in Metro  
20 schools; do you know?

21 A. I'd have to count them.

22 Q. Don't worry.

23 A. Like I said, I live in the world of  
24 employee data.

25 Q. What jobs did you look for in the system

1 in terms of -- did you personally spend any time  
2 looking for jobs for Jane Doe to do?

3 A. No.

4 Q. I think that is it. One more question.  
5 Do you by any chance know the dollar figure of the  
6 vacancies by any chance?

7 A. No, ma'am.

8 EXAMINATION BY MS. HARBISON:

9 Q. All right. Ms. Spencer, I just have a few  
10 questions, but I think it may be easier for me to  
11 show the exhibits via Zoom. If we could go off the  
12 record just a few minutes.

13 (Brief break observed.)

14 BY MS. HARBISON:

15 Q. Okay. So, Ms. Spencer, we met earlier,  
16 but my name is Jesse Harbison. I represent Damon  
17 Cathey in this case. Do you know Dr. Cathey?

18 A. I do.

19 Q. How do you know him?

20 A. We're colleagues.

21 Q. So did you meet him through your  
22 employment with Metro?

23 A. I did.

24 Q. What's your impression of Dr. Cathey?

25 A. I like Damon.

1 Q. Does he have a good reputation within the  
2 schools, to the best of your knowledge?

3 A. I don't know that I have heard negative  
4 things about him necessarily.

5 Q. Does he appear to you to have friends  
6 within the school system?

7 A. He has close colleagues. Friend is a word  
8 that I use rather sparingly, but he has close  
9 colleagues.

10 Q. Sure. Friendly within the confines of  
11 someone being a coworker; is that fair to say?

12 A. Right. He is a friendly person.

13 Q. Okay. We covered this a little bit  
14 earlier, but tell me when you first or how you first  
15 learned that the associate superintendent job was  
16 being eliminated.

17 A. Dr. Barnes called me the day before and  
18 said, I am going to send however many meeting  
19 invitations. There's going to be a reorganization.  
20 I need you to sit in these meetings as a witness to  
21 listen.

22 Q. Did you keep any notes from those meetings  
23 by any chance?

24 A. I did not.

25 Q. Why did you need to be there as a witness?

1           A.     I think that Dr. Barnes wanted -- he  
2     wanted someone besides just him to hear what he was  
3     saying. He wanted, in the instances where we  
4     could -- we had supervisors in the room, as well.  
5     We -- when you're given news like that, it's very  
6     difficult for people to absorb, and they don't  
7     always remember exactly what was said, so sometimes  
8     it's better to have more than one person.

9           Q.     At some point, did you learn that the  
10    executive directors were going to have to reapply  
11    for their jobs?

12          A.     Dr. Barnes, I think he told them -- I want  
13    to say he told them in those meetings that all of  
14    the jobs would be open for application.

15          Q.     When you say, all of the jobs would be  
16    open for application, what do you mean?

17          A.     So the available positions, the executive  
18    director positions and the other -- anything else  
19    that was coming up would be open for application.

20          Q.     So let's back up just a little bit,  
21    though. Did you know that people that were in the  
22    executive director role as of spring semester of  
23    2020 were going to have to reapply for their jobs to  
24    continue as executive directors going into the next  
25    school year?

1           A.     That were -- yeah, that was part of the  
2     conversations that he and I had the day before.

3           Q.     Okay. Were you responsible for drafting  
4     the new organizational chart after the  
5     reorganization?

6           A.     I have the software for doing  
7     organizational charts, and so when there is a  
8     change, they will send the information to me and I  
9     will put it together, so I'm not suggesting an  
10    organization, I'm not creating, I am basically  
11    memorializing what has been given to me.

12          Q.     Who gave you the information to draft the  
13    organizational chart after the 2020 reorganization?

14          A.     Dr. Barnes.

15          Q.     Do you recall there being a delay between  
16    when the organizational chart was supposed to be  
17    released and when it actually was released?

18          A.     I do.

19          Q.     What do you mean about that?

20          A.     Exactly that.

21          Q.     Do you know what caused the delay?

22          A.     I do not.

23          Q.     I'm going to share my screen with you,  
24    hopefully. Okay. Let me know when you can see my  
25    screen, Ms. Spencer.

1 A. Okay.

2 Q. Take a second and look at this first part  
3 of this screen and let me know when you've had a  
4 chance to read that and then I'll scroll down so you  
5 can sort of put it in context.

6 A. Uh-huh.

7 Q. Okay. Have you finished reading what's on  
8 the screen now?

9 A. Uh-huh.

10 Q. This is Bates stamped SchoolsEmails 13286.  
11 Have you seen this document before, Ms. Spencer?

12 A. Yes.

13 Q. What is this document?

14 A. It's an e-mail exchange between Dr.  
15 Felicia Everson-Tuggle and me.

16 Q. Who is Dr. Everson-Tuggle?

17 A. Dr. Everson-Tuggle is one of our executive  
18 directors.

19 Q. Currently?

20 A. Yes.

21 Q. Do you know what Dr. Everson-Tuggle was  
22 doing professionally prior to the 2020, 2021 school  
23 year?

24 A. I believe she was an employee of the  
25 Department of Education.

1 Q. So she was an outside hire for the  
2 executive director role?

3 A. Yes.

4 Q. Do you know how it came to be that she  
5 applied for an executive director role with MNPS?

6 A. I do not.

7 Q. In this e-mail that you sent on June 1st,  
8 you say, Dr. Everson-Tuggle, thank you for reaching  
9 out and your continued interest in MNPS. I believe  
10 that Dr. Barnes is finalizing the selections with  
11 the director early this week and I anticipate that  
12 he or I will contact you as soon as that is  
13 complete. Do you see that?

14 A. I do.

15 Q. And this was sent on June 1st, 2020,  
16 correct?

17 A. That's what it says.

18 Q. At 9:00 p.m.

19 A. Yes.

20 Q. Looks like you were burning the midnight  
21 oil a little bit that day?

22 A. All that summer.

23 Q. Tell me more about that.

24 A. We had a lot to accomplish. In additional  
25 to our regular work, we were also trying to figure

1 out what the school was going to look like the next  
2 year and all the things that we needed to be doing  
3 about pandemic.

4 Q. Was there some confusion about what the  
5 school was going to look like the next year?

6 A. It was just simply a matter of, you know,  
7 that was the time period when we were being -- we  
8 were being given instructions from the federal  
9 government, the state government, the local  
10 government about, you can go in this building, you  
11 can't go in this building, you can open the school,  
12 you can't open the school. We had to know how we  
13 were going to do school the following year. We knew  
14 we had to do school, we had 80,000 kids to take care  
15 of, we just had to figure out how to do school.

16 Q. Was there any confusion about what the  
17 organizational structure was going to be for the  
18 following school year?

19 A. I don't think I would say that, I think  
20 the director knew what she wanted the organization  
21 to look like. We were all just doing a lot of  
22 additional work outside of our normal.

23 Q. How did you know that Dr. Barnes was  
24 finalizing the selections with the director early  
25 this week, meaning the week of June 1st, 2020?

1           A.     I would imagine that Dr. Barnes had said  
2     to me, we're finishing up, finalizing, getting ready  
3     to make offers, director has made her selections,  
4     whatever it is that he would have said.

5           Q.     Do you specifically remember that  
6     conversation, though?

7           A.     Not necessarily.

8           Q.     Did you and Dr. Barnes have any  
9     discussions regarding the panel interviews for the  
10    executive director role and specifically how  
11    different people performed in those panel  
12    interviews?

13          A.     We might have had casual conversation  
14    about them, but I wasn't scoring, I wasn't  
15    selecting, so it's not like he was saying to me, do  
16    you think we should recommend this person, because  
17    that was not my role.

18          Q.     Did he say to you anything regarding his  
19    opinion about how certain people performed in the  
20    panel interviews?

21          A.     I don't remember a specific -- like  
22    so-and-so did X kind of conversation, if that's what  
23    you're asking.

24          Q.     Is it your understanding that there was a  
25    second round of interviews for the executive

1 director position, meaning there was a panel  
2 interview and then some people went on to a  
3 second-round interview?

4 A. I believe that's true.

5 Q. Okay. Do you know what the second  
6 interview entailed, meaning who was there?

7 A. The second interviews would have been Dr.  
8 Battle and whoever she would have asked to  
9 participate.

10 Q. How did you know that?

11 A. That's Dr. Battle's standard practice when  
12 she is going to make a hiring decision, is that  
13 panelists interview a group, if you will, and then  
14 she does a second round. That's how she does  
15 principals, as well.

16 MS. HARBISON: I'm going to make this the  
17 next-numbered exhibit.

18 (WHEREUPON, the  
19 previously-mentioned document was  
20 marked as Exhibit Number 5.)

21 MR. FOX: No objection.

22 BY MS. HARBISON:

23 Q. Did you discuss with Dr. Barnes how people  
24 were chosen or how candidates were chosen to  
25 participate in the second round of interviews for

1 the executive director jobs?

2 A. Not specifically, no. He gave me a list.

3 Q. Do you still have that list?

4 A. I doubt it.

5 Q. Why did he give you a list?

6 A. Because he was trying to get all those  
7 interviews set up. Melissa Bryant would have  
8 actually ended up setting them up.

9 Q. Okay. Setting up the second round of  
10 interviews?

11 A. Right. Anything that's an interview with  
12 the director, her assistant sets up.

13 Q. Okay. So tell me if I'm wrong about this,  
14 but it sounds like what you're saying is, he gave  
15 you the list so that you could arrange or schedule  
16 this --

17 A. So we could get them all, yeah.

18 Q. I'm going to share my screen with you one  
19 more time. Okay. Will you take a look at that and  
20 let me know when you've had a chance to read it.

21 A. Okay.

22 Q. Okay. And this e-mail is -- or this  
23 document is Bates stamped SchoolsEmails 0013303.  
24 Have you seen this document before, Ms. Spencer?

25 A. Yes.

1 Q. Okay. What is this document?

2 A. This was notification to the interview  
3 panel that Chad High was going to be interviewed the  
4 following day.

5 Q. Okay. You sent this e-mail to the panel,  
6 correct?

7 A. I did.

8 Q. And you sent it on June 3rd, 2020,  
9 correct?

10 A. Yes.

11 Q. And you sent it to Ken Stark, Elisa  
12 Norris, Sharon Griffin and David Williams, and you  
13 cc'd Chris Barnes, right?

14 A. Yes.

15 Q. And I think we've established those are  
16 the members of the interview panel for the executive  
17 director panel interviews, correct?

18 A. Yes. Dr. Griffin was the one that I  
19 couldn't remember.

20 Q. Okay. So this was sent on the 3rd, but  
21 the e-mail we just looked at on the 1st said that  
22 Dr. Barnes was finalizing the selection, correct?

23 A. It said I believed he was.

24 Q. Do you know why Mr. High was put into this  
25 candidate pool after the selections were already

1 being made?

2 A. I do not.

3 Q. This says that you, if Dr. Barnes can't  
4 join, you are going to take his place, correct?

5 A. Yes. He did ask me if I could take his  
6 place in that one if he couldn't be there.

7 Q. Do you remember if you did take his place?

8 A. I believe that I did.

9 Q. Okay. What do you remember about Chad  
10 High's interview?

11 A. I had not met him up to that point. I  
12 remember thinking he was an experienced principal  
13 and seemed to have a good feel for what an executive  
14 director did. You know, I don't know that I would  
15 say that I remember a whole lot more than that. I  
16 don't remember actual words or phrases.

17 Q. If someone -- if one of the other  
18 panelists testified or said that he could barely  
19 answer the questions, would you agree with that?

20 A. I don't know that I would agree with that.  
21 I think that he answered the questions as adequately  
22 as anyone else.

23 Q. Were you in any of the other interviews as  
24 a scorer?

25 A. As a scorer, I was not.

1 Q. Why was he chosen instead of Lily Leffler?

2 A. I don't know. I don't know.

3 Q. Describe to me how you logged your scores  
4 for the panel interview for Chad High.

5 A. So Dr. Barnes had the form. I honestly  
6 can't remember whether I logged a score or not,  
7 because I hadn't scored all the rest of them, but I  
8 might have because Dr. Barnes wasn't there. I do  
9 not remember. But Dr. Barnes had the electronic  
10 form that he sent everyone. It was a link.

11 Q. Are you --

12 A. -- and just went in a filled it out.

13 Q. Are you saying it's possible that you  
14 didn't score Chad High?

15 A. I do not remember. It is possible that I  
16 did; it is possible that I did not.

17 Q. Did this take place via Teams, the  
18 interview?

19 A. Teams or Skype, one or the other. We were  
20 in the midst of switching.

21 Q. Did the other panelists discuss Chad  
22 High's interview after the interview concluded, that  
23 you know of?

24 A. Not with me.

25 Q. Did you discuss it individually with any

1 of the other panelists after the interview?

2 A. No.

3 Q. Can you give me any reason why Chad High  
4 would score higher on the interview panel scores  
5 than Lily Leffler?

6 A. I cannot.

7 Q. Okay. Can you give me any reason why Chad  
8 High would score higher than Damon Cathey on the  
9 interview scores?

10 A. Everybody scores differently, everybody  
11 makes a different impression. I can't tell you why  
12 one person would score higher or lower than another.

13 Q. Did you know that Dr. Cathey had one of  
14 the highest scores?

15 MR. FOX: Objection to the form.

16 THE WITNESS: One of the...

17 BY MS. HARBISON:

18 Q. So on the interview panel -- do you know  
19 that we have the scores, some of them?

20 A. I thought you said that they were missing.

21 Q. Well, some of them are missing. One of  
22 them actually, Chad High's. Does that surprise you?

23 A. Nothing about our technology surprises me.  
24 I did not know that Dr. Cathey scored higher than  
25 anybody, or had a higher score or whatever it was

1 that you said. I didn't see the scores.

2 Q. Okay. We have -- what's been produced to  
3 us are the scores for everyone, other than Chad  
4 High; did you know that?

5 A. I did not.

6 Q. Okay. Of the scores that we have, Dr.  
7 Cathey is one of the highest scoring applicants; did  
8 you know that?

9 MR. FOX: Objection to the form.

10 THE WITNESS: No.

11 BY MS. HARBISON:

12 Q. So do you know why Chad High was chosen  
13 instead of Damon Cathey?

14 A. I don't know why. I know that Dr. Battle  
15 has the final authority to make the decisions about  
16 those kinds of positions.

17 Q. Have you ever heard Dr. Battle comment  
18 about Dr. Cathey in any way?

19 A. No.

20 Q. Have you ever heard Dr. Battle comment  
21 about any of the plaintiffs in this case in any way?

22 A. No.

23 Q. Whether positive or negative?

24 A. It's not Dr. Battle's style to make  
25 comments about people.

1 Q. What is her style?

2 A. Her style is very professional, very  
3 formal. She does not gossip. She does not talk  
4 about people.

5 Q. So if other people said she did gossip,  
6 they're lying?

7 MR. FOX: Objection to the form.

8 THE WITNESS: If others said that she does  
9 gossip, they have a different impression of Dr.  
10 Battle than I have. In my experience, she does not  
11 act that way.

12 BY MS. HARBISON:

13 Q. So you're speaking solely from your  
14 personal experience in your dealings with Dr.  
15 Battle, correct?

16 A. That's all I can speak to is my experience  
17 with her. I've never heard her say something about  
18 another person.

19 Q. Why would you not have scored Chad High's  
20 interview if you were one of the panelists for his  
21 executive director panel interview?

22 A. If I didn't score, it would have been  
23 because I didn't score the rest of them, so that  
24 would have been consistent.

25 Q. Meaning you did not sit in on any of the

1 other panels?

2 A. Meaning I listened to several of the early  
3 ones. I was on vacation for half of them, so I  
4 didn't hear them, so rather than make me a panelist,  
5 Dr. Barnes asked me to facilitate those I could be  
6 present for.

7 Q. So let me make sure I understand. It's  
8 possible that you did not score Chad High's  
9 interview because you did not score anyone else's  
10 interview, correct?

11 A. Correct.

12 Q. So it's possible that Chad High was  
13 scored, if he was scored at all, by a different  
14 number of panelists than all the other interviewees,  
15 correct?

16 A. That is possible.

17 Q. Okay.

18 MS. HARBISON: I'm going to make this  
19 e-mail the next-numbered exhibit, the e-mail Bates  
20 stamped SchoolsEmails 13303, and I believe we're on  
21 Exhibit 6.

22 (WHEREUPON, the  
23 previously-mentioned document was  
24 marked as Exhibit Number 6.)

25 BY MS. HARBISON:

1           Q.    Did you know that Dr. Cathey, at some  
2 point, submitted a records request to Metro  
3 regarding the executive director interviews?

4           A.    Yes.

5           Q.    How did you learn about that?

6           A.    Records requests come to me.

7           Q.    Okay. Tell me about your role in  
8 completing records requests.

9           A.    So the public records office sends records  
10 requests to me, and then my job is basically to  
11 either gather the information, if I have it, or try  
12 to get it from other people who might have it, and  
13 send it back to the records office when it's all  
14 finished.

15          Q.    Why is that -- why are you responsible for  
16 that?

17          A.    Because employee records are part of the  
18 purview of my job. The employee resource center is  
19 where employee records are technically created, the  
20 employee files that we have, that information is  
21 placed in files through the employees in the  
22 employee resource center. Employee data goes to the  
23 employee resource center. Most of the employee --  
24 or most of the public records requests that we get  
25 are for a single employee's file, or, you know, a --

1 people who want salary lists or things like that.

2 And so several years ago, the determination was made  
3 that it would be best to have only a single person  
4 in the department who was sort of corralling all of  
5 that, and it happened to be me.

6 Q. What training do you have in responding to  
7 records requests?

8 A. So the initial public records statute, the  
9 one that was created in 2008 or 2009, somewhere in  
10 there, the general counsel for the Tennessee  
11 Department of Human Resources was one of the people  
12 who helped draft that, who helped create all the  
13 training for that, and our department responded to  
14 public records requests for employee files for all  
15 state employees, so she actually trained me on how  
16 to redact a file, how to, you know, create a  
17 response, all of those things.

18 Q. You're talking about when you worked at  
19 the State, correct?

20 A. Uh-huh.

21 MR. FOX: Is that yes?

22 THE WITNESS: Yes.

23 BY MS. HARBISON:

24 Q. I'm going to show you my screen. So, Ms.  
25 Spencer, let me know when you've had a chance to

1 look at what's on the screen now, and then when  
2 you're ready for me to keep scrolling.

3 A. Keep scrolling. Keep scrolling. Keep  
4 going. Okay.

5 Q. And the document that we are looking at  
6 Bates labeled SchoolsEmails 13262 through 13263.  
7 Ms. Spencer, have you seen this document before?

8 A. Yes.

9 Q. What is this document?

10 A. This is an e-mail from -- at the top is an  
11 e-mail from me to Dr. Barnes. At the bottom is an  
12 e-mail from Dr. Barnes to me, and somewhere is an  
13 e-mail from Nicole Reid to Dr. Barnes about Dr.  
14 Cathey's request for all of the records related to  
15 the executive director position.

16 Q. And these were sent -- Dr. Cathey's e-mail  
17 to Nicole Reid was sent on June 17th, 2020. It was  
18 forwarded to you by Dr. Barnes on the same day,  
19 correct?

20 A. Yes.

21 Q. And then you responded on the same day,  
22 correct?

23 A. Yes.

24 Q. All on June 17, 2020, correct? Who is  
25 Nicole Reid?

1           A.     Nicole Reid is the public records officer  
2     in the communications department.

3           Q.     How do you all divvy up the  
4     responsibilities for responding to records requests,  
5     if at all, you and Nicole Reid?

6           A.     So Nicole's responsibility is to  
7     communicate with the requester on one end and with  
8     whatever department she needs to on the other end.

9           Q.     Okay. So she is not actually responsible  
10    for gathering the documents, correct?

11          A.     In general, no.

12          Q.     Okay. In this case, that responsibility,  
13    and when I say, in this case, I'm referring to Dr.  
14    Cathey's records requests, that responsibility would  
15    have fallen to you?

16          A.     It would have fallen to our department.

17          Q.     Why did you respond to Mr. Barnes or  
18    Dr. Barnes and say, mercy?

19          A.     Because that was a lot of information  
20    requested.

21          Q.     Meaning the number 1 through 11?

22          A.     Yes. 3.

23          Q.     Were you annoyed that Dr. Cathey had sent  
24    this?

25          A.     No, not annoyed, it was just a lot.

1           Q.     What did you -- so let me ask it this way.  
2     In Dr. Cathey's e-mail it says, the Tennessee Open  
3     Records Act requires a response within seven days,  
4     correct?

5           A.     Yes.

6           Q.     Is that your understanding about the time  
7     to respond to this records request?

8           A.     Unless you need more time in which case  
9     you can tell the requester that you need more time.

10          Q.     Do you know if anyone told Dr. Cathey that  
11     they needed more time?

12          A.     I don't remember.

13          Q.     What did you do after you received this  
14     e-mail?

15          A.     I would have started gathering the  
16     information that I had access to, and I would have  
17     asked Dr. Barnes for the information that he had  
18     access to.

19          Q.     How would you gather the information that  
20     you had access to? Well, actually, let me ask this  
21     question. Of these 11 categories of documents,  
22     which categories did you have access to without  
23     needing to ask anyone else for access?

24          A.     I would have had the applicant rosters,  
25     the posting dates.

1 Q. Well, hold on, so the applicant roster,  
2 that's paragraph three, correct?

3 A. Yes.

4 Q. Okay. Go ahead. Or are you talking about  
5 paragraph six? Why don't we do it this way. Did  
6 you have access to the category of documents  
7 described in paragraph one without having to ask  
8 anyone else for access?

9 A. No.

10 Q. So what did you do to gather the  
11 information described in paragraph one of Dr.  
12 Cathey's records request?

13 A. I would have asked Dr. Barnes for it.

14 Q. And did you ask Dr. Barnes?

15 A. Dr. Barnes and I talked about this. We  
16 talked about gathering the stuff. I remember  
17 pulling out of the applicant tracking system, the  
18 lists of candidates, the posting dates.

19 Q. Well, we're talking specifically about  
20 interview notes right now.

21 A. So interview notes, I would have said to  
22 Dr. Barnes, that's in your stuff. I don't have  
23 that.

24 Q. When you say, in your stuff, what stuff  
25 are you referring to?

1           A.     So any interview notes, if there were  
2 notes on the score sheets, and the score sheets, and  
3 all of that would have been with his form.

4           Q.     When you say, form, what are you referring  
5 to?

6           A.     The form that he gave to all of the  
7 panelists for scoring, the electronic form that they  
8 use to score.

9           Q.     Okay.

10          A.     That was attached to his One Drive account  
11 that none of the rest of us could see.

12          Q.     Okay. So your understanding was that  
13 people filled out the form and it went to his One  
14 Drive account in the cloud, correct?

15          A.     Correct.

16          Q.     Okay. Did you ask the panelists whether  
17 they had notes that were not contained in the One  
18 Drive account?

19          A.     I did not.

20          Q.     Do you know if Dr. Barnes did?

21          A.     I do not know.

22          Q.     Is it fair to say that if those  
23 interviewers had kept interview notes, for example  
24 on their own computers or on a legal pad,  
25 handwritten notes, anything like that, that that

1 would have been responsive to Dr. Cathey's records  
2 request?

3 A. Perhaps. Strengths and wonderings is --  
4 that's terminology that was used in principal  
5 interviews. Those are part of the official  
6 principal interview documentation. So I don't know  
7 that that's something that was used here. Note  
8 sheets might go to what you're saying.

9 Q. Well, it says, all interview notes,  
10 correct? So if they had kept interview notes, then  
11 it would be responsive to this records request,  
12 correct?

13 A. Yes, but I don't whether they did or not.

14 Q. Because to the best of your knowledge, no  
15 one was asked, correct?

16 A. I did not ask anyone.

17 Q. How about paragraph two, did you have the  
18 documents responsive to paragraph two without  
19 needing to ask anyone else?

20 A. No.

21 Q. Who did you ask regarding the documents  
22 described in category -- in the category of  
23 paragraph two?

24 A. I would have asked Dr. Barnes to provide  
25 those.

1 Q. And did you ask Dr. Barnes?

2 A. I said, Dr. Barnes, do you have the  
3 interview scores, that's part of this request.

4 Q. Do you know if he gave those to you?

5 A. I don't remember whether he gave them to  
6 me. I'm not sure whether I fully answered this one  
7 or whether both of us answered this one. I do not  
8 remember.

9 Q. Is it your understanding that if there  
10 were interview scores, they would have been in  
11 Dr. Barnes' One Drive account?

12 A. They should have been contained in the --  
13 within Microsoft Forms. Generally what spits out in  
14 responses is a spreadsheet.

15 Q. I just want to make sure this is clear for  
16 the record. Microsoft Forms is an online form  
17 program, correct?

18 A. Yes.

19 Q. And people can enter data into Microsoft  
20 Forms, correct?

21 A. Yes.

22 Q. And then whoever created the form can go  
23 in and export a spreadsheet, correct?

24 A. Yes.

25 Q. And that will show all the data that's

1     been input into the form, correct?

2             A.     Yes.

3             Q.     So when we're talking about the scores and  
4     a spreadsheet that's generated from the scores,  
5     we're talking about something that's generated  
6     directly from Microsoft --

7             A.     Forms.

8             Q.     -- forms, correct?

9             A.     Yes.

10            Q.     So any interview scores, to the best of  
11    your knowledge, would have been in Microsoft Forms,  
12    correct?

13            A.     Yes.

14            Q.     How about paragraph three, did you have  
15    the -- all the documents responsive to paragraph  
16    three without needing to ask anyone else?

17            A.     Yes.

18            Q.     So did you produce the applicant roster?

19            A.     I believe that I did.

20            Q.     Where would that have been within your  
21    files?

22            A.     The applicant roster would have come from  
23    the applicant tracking system.

24            Q.     What is the applicant tracking system,  
25    does it have a name?

1 A. Taleo, T-A-L-E-O.

2 Q. Taleo. Does MNPS still use Taleo?

3 A. Yes.

4 Q. Okay. Does Taleo retain -- well, how long  
5 does Taleo retain data; do you know?

6 A. Indefinitely, as far as I know.

7 Q. But the interview scores would not have  
8 been in Taleo, correct?

9 A. Correct.

10 Q. Taleo gathers applicant data?

11 A. Taleo is the system where an applicant --  
12 a job is posted internally or externally, applicants  
13 apply, the information about those applicants, their  
14 actual application information is contained --

15 Q. In Taleo?

16 A. Yes.

17 Q. Paragraph four, would you have had all the  
18 information responsive to the documents described in  
19 paragraph four without needing to ask someone else?

20 A. I would not.

21 Q. Who would have had that information  
22 described in paragraph four?

23 A. Dr. Barnes.

24 Q. Did you ask Dr. Barnes for those interview  
25 notes for interviews after May 27th described in

1 paragraph four?

2 A. Again, Dr. Barnes and I discussed this  
3 entire request.

4 Q. Okay. To the best of your knowledge, any  
5 such interview notes, if they existed, that you  
6 produced in response to this records request would  
7 have been contained in Microsoft Forms, correct?

8 A. Unless Dr. Barnes collected other things  
9 from other people and gave them to me.

10 Q. Okay. Do you recall if he did that?

11 A. I don't.

12 Q. And you kind of answered my question  
13 before I asked it, but did you go to any panelists  
14 and ask them if they had interview notes for  
15 interviews after May 27th that would not be  
16 contained in Microsoft Forms?

17 A. I don't believe that I did. It's entirely  
18 possible that I would have e-mailed people, but I  
19 don't remember doing it.

20 Q. Okay. So paragraph five, all interview  
21 scores for interviews after May 27th. Is that also  
22 a category of information that you asked Dr. Barnes  
23 if he had documents related to that paragraph five?

24 A. Yes.

25 Q. Do you know if he gave those to you?

1           A.     Again, I don't remember whether he gave me  
2 all this stuff or whether he sent part of it to  
3 Nicole and I sent part of it to Nicole.

4           Q.     To the best of your knowledge, any  
5 interview scores that were produced to Dr. Cathey  
6 for interviews after May 27th would have been pulled  
7 from Microsoft Forms, correct?

8           A.     Yes.

9           Q.     Okay. Did you have the applicant rosters  
10 described in paragraph six?

11          A.     I should have.

12          Q.     Okay. Do you recall whether you  
13 specifically pulled applicant rosters for interviews  
14 after May 27th?

15          A.     I don't remember whether I pulled them  
16 separately or that I just pulled an applicant roster  
17 for the executive director's positions.

18          Q.     Meaning for all of them --

19          A.     Right.

20          Q.     -- correct? Okay. May 27th was after the  
21 interviews were already under way, correct?

22          A.     Yes.

23          Q.     Do you know of anyone that that would have  
24 applied to that -- this paragraph six, other than  
25 Chad High? Let me ask it a better way. Do you know

1 of anyone who applied for the executive director  
2 role after May 27th other than Chad High?

3 A. I think it's entirely possible other  
4 people applied for the role, because it was still  
5 open.

6 Q. Okay. Did you have the documents or  
7 information responsive to paragraph seven without  
8 having to ask someone else for those documents for  
9 information?

10 A. That information comes from Taleo, so I  
11 can access that.

12 Q. So you were able to pull that from Taleo,  
13 correct?

14 A. So I would be able to pull that from  
15 Taleo.

16 Q. Would you have been able to pull the  
17 information described in paragraph eight from Taleo,  
18 as well?

19 A. Yes.

20 Q. Okay. How about paragraph nine, would you  
21 have been able to pull the applicant roster for the  
22 executive director, principal support job from  
23 Taleo?

24 A. Yes.

25 Q. Okay. Paragraph 10, All forms that were

1 completed and/or submitted for scoring. Did you ask  
2 Dr. Barnes about that?

3 A. That would have been in his materials.

4 Q. Did you ask anyone else about that?

5 A. I don't remember asking anyone else about  
6 that.

7 Q. What about paragraph 11, do you know who  
8 gathered the information, if anyone did, responsive  
9 to the request in paragraph 11?

10 A. I would have pulled all of my e-mails. I  
11 might have pulled calendars that would have shown  
12 the actual interview schedule. The others would  
13 have been asked to pull their e-mails.

14 Q. The others, meaning each individual  
15 identified in paragraph ten?

16 A. Dr. Stark, Dr. William, Dr. Norris, Dr.  
17 Barnes, Dr. Griffin.

18 Q. Who would have told those individuals to  
19 search their e-mails and pull any responsive  
20 e-mails?

21 A. It would have been either me or Dr. Barnes  
22 or potentially Nicole. She might have reached out  
23 to the group of listed people and asked them for  
24 their e-mails.

25 Q. Okay. So this records request was sent on

1 June 17th, 2020, correct?

2 A. Yes.

3 MS. HARBISON: I'm going to make this the  
4 next-numbered exhibit.

5 (WHEREUPON, the  
6 previously-mentioned document was  
7 marked as Exhibit Number 7.)

8 MR. FOX: No objection. Seven.

9 BY MS. HARBISON:

10 Q. Okay. Ms. Spencer, I'm going to show you  
11 another document. All right. Ms. Spencer, just let  
12 me know when you can see my screen, and once you've  
13 had a chance to look at what's on the screen, let me  
14 know when you're ready for me to scroll.

15 A. Okay. Okay. Okay.

16 Q. Okay. What we're looking at Bates labeled  
17 SchoolEmails 13889 through 13891. Have you seen  
18 this document before, Ms. Spencer?

19 A. Yes.

20 Q. What is this document?

21 A. This is a series of e-mails.

22 Q. Related to?

23 A. To records requests.

24 Q. It begins with a records request from an  
25 individual named Darlene Reese, correct?

1 A. Yes.

2 Q. Do you know who that is?

3 A. I do not.

4 Q. Okay. But she is also requesting  
5 information related to the executive director  
6 position and the application for that position,  
7 correct?

8 A. Yes.

9 Q. Or applications for that position. She  
10 sent this, looks like the day before Dr. Cathey sent  
11 his, correct? She sent it on June 16th, 2020?

12 A. Uh-huh.

13 Q. Nicole Reid sent you an e-mail on  
14 June 23rd and said that she wanted to follow up on  
15 Darlene Reese's June 16th request and stated that  
16 the response date was approaching, correct?

17 A. Yes.

18 Q. And then again on July 1st, Nicole Reid  
19 sent you an e-mail and said that this request was  
20 overdue, correct?

21 A. Yes.

22 Q. Why was it overdue at that point?

23 A. That was the two -- the last two weeks of  
24 June, first part of July. We were -- a group of us  
25 were at the Martin Center planning for the next

1 school year.

2 Q. Okay.

3 A. All day, every day.

4 Q. Okay.

5 A. Somewhere in the middle of all of that, my  
6 computer died.

7 Q. Okay.

8 A. It was the most frustrating week of my  
9 life, I think. I literally had to give it to IT for  
10 a week.

11 Q. You described that in this e-mail,  
12 July 1st e-mail, to Nicole Reid, correct?

13 A. Yes.

14 Q. What did your laptop being inoperable have  
15 to do with responding to -- well, let me ask it this  
16 way. Were there some documents that were responsive  
17 to Dr. Cathey's records requests that were contained  
18 only on your laptop and nowhere else?

19 A. They were contained on the systems  
20 available through my laptop.

21 Q. Were those systems remote systems or were  
22 they on the laptop itself?

23 A. So they were network systems.

24 Q. Okay.

25 A. So e-mail, Taleo, the things you have to

1 be on the network -- on a network computer to  
2 access.

3 Q. Okay. Do you know if at this point Dr.  
4 Barnes had sent you the interview scores for the  
5 executive director interviews?

6 A. I honestly do not remember.

7 Q. Okay. And he responded and said, should I  
8 send my stuff directly -- he, being Chris Barnes,  
9 responded to you in an e-mail and said, should I  
10 send my stuff directly to her, correct?

11 A. He did.

12 Q. Do you know who he's referring to there?

13 A. To Nicole.

14 MS. HARBISON: I'm going to make this the  
15 next-numbered exhibit. Exhibit 8.

16 (WHEREUPON, the  
17 previously-mentioned document was  
18 marked as Exhibit Number 8.)

19 MR. FOX: No objection.

20 BY MS. HARBISON:

21 Q. Do you have any idea why Chad High's  
22 scores are missing?

23 A. I do not.

24 Q. You said that Chris Barnes, once he left,  
25 I think there was something that you referred to,

1 some sort of online system that was no longer  
2 accessible perhaps after he left; what was that?

3 A. So after Dr. Barnes left, his active  
4 directory account, which is the account inside of  
5 our system that gives us access to everything, it's  
6 our e-mail, address, it gives us access to  
7 everything. When a person leaves, that account is  
8 immediately shut down, and access to the things that  
9 they had in other Microsoft systems, like Microsoft  
10 Forms, goes away.

11 Q. Do you know if there is anyone that you  
12 can call to see if that account can be reactivated?

13 A. We actually tried to get the exit  
14 interview that he had created. We talked to IT  
15 about whether or not that could be recovered in some  
16 way. And at the point that we asked the question, I  
17 think that his account had been closed for more than  
18 30 days at which point everything had been deleted.

19 Q. So it was your understanding that it was  
20 still accessible but things had been deleted?

21 A. So the way that I understand it, it's the  
22 way that I understand it, is that the information in  
23 a One Drive account, that the account itself is  
24 deleted at the end of 30 days after a person leaves  
25 the district.

1 Q. And you said he left in October of 2021,  
2 correct?

3 A. He left in later September or early  
4 October, because Ms. Roberge came in October.

5 Q. So this records request was submitted over  
6 a year before he left, correct?

7 A. Yes.

8 Q. So if Chad High's scores were in Microsoft  
9 Forms, there was a period of over a year when they  
10 could have been retrieved from his forms account,  
11 correct?

12 A. Correct.

13 MS. HARBISON: I don't have any other  
14 questions.

15 MS. STEINER: I've got one. Just real  
16 quick, I promise.

17 REDIRECT EXAMINATION BY MS. STEINER:

18 Q. If you know everything is going to be  
19 deleted within 30 days, what type procedure has  
20 Metro schools set up to grab the documents before 30  
21 days runs?

22 A. So the person's supervisor gets a notice  
23 that the One Drive account is available if they want  
24 to -- you know, if there is information they need to  
25 gather, and it says at the end of 30 days, this is

1 going to be deleted. I think what none of us  
2 realized until Dr. Barnes left, and then again when  
3 one of my employees left that had done some of the  
4 same sorts of forms, was that the information from  
5 not just -- your One Drive account is basically  
6 where your documents get stored. I don't think any  
7 of us realized that stuff from Microsoft Forms also  
8 stored there, and also disappeared. I think that  
9 was a disconnect for me personally. I will say  
10 that.

11 Q. One Drive, if you have a One Drive  
12 account, other people can access the same One Drive,  
13 correct?

14 A. We all have a personal One Drive account.

15 Q. But you also have a joint one, too, don't  
16 you?

17 A. There's a SharePoint account that you can  
18 share documents back and forth.

19 Q. Okay. And how do you know -- how do you  
20 tell the employees what to put on their personal  
21 versus what to put on their shared one?

22 A. So everything that you create, you can  
23 save -- it will automatically -- automatically, not  
24 being a technical term, but goes to your One Drive,  
25 or you can choose to save it on a network drive of

1 some sort. The HR department has a shared network  
2 drive that all the documents on that drive are  
3 available to all of the employees in our department  
4 so that we can all see, for instance standard  
5 operating processes and, you know, templates and  
6 things like that, but your individual drive is the  
7 default setting.

8 Q. Okay. For the default setting, for  
9 instance, you, do you not share that with your  
10 assistants?

11 A. I don't have an assistant.

12 Q. Did Dr. Barnes have an assistant?

13 A. He did for part of the time he was there.

14 Q. Who was that?

15 A. Kelly Colewell.

16 Q. Do you know whether or not he shared his  
17 One Drive with his assistant?

18 A. You can't share your whole One Drive with  
19 anybody. You can share individual documents or  
20 folders. Like you can deliberately go share one,  
21 but you can't just share your One Drive without  
22 sharing your user name and password, which is  
23 against the rules.

24 Q. Who would have gotten the 30-day notice on  
25 Dr. Barnes' account, who was the supervisor?

1 A. Dr. Battle.

2 Q. Okay. Last question, I want to ask you  
3 this. This was e-mailed to, I believe, Jane Doe.

4 A. I'm sorry, I can't see it.

5 Q. Do you recognize this? It's something  
6 that we call vacancies by function, and I think  
7 that's what it was called, and it was e-mailed out  
8 --

9 A. That looks like a finance report.

10 Q. -- to a whole bunch of people, I believe,  
11 just about everybody. Do you recognize this?

12 A. That looks like something that comes out  
13 of budget and finance.

14 Q. Would you have gotten a copy of this?

15 A. Potentially.

16 Q. And does this show the jobs that are  
17 vacant for a particular time period?

18 A. It would show -- I'm sorry, let me lean  
19 over the table if you don't mind. Can you take me  
20 all the way to the top? It does not say vacancies.

21 Q. Top of the page, it was titled MNPS  
22 vacancies by function, June 2020.

23 A. Okay. Thank you. So that then would be  
24 budgeted positions unfilled at that point.

25 Q. Is this something that is commonly sent to

1 certain people in central office?

2 A. It's not commonly sent, no.

3 Q. But it is sent?

4 A. I have seen it before, but it's not...

5 Q. Does this show the function, department,  
6 the job type and the salary for the job?

7 A. So what that looks like to me is a report  
8 that budget would have run that would have shown the  
9 vacancy, FTE's, and whatever salary -- the total  
10 salary for all vacancies on that line, as I see some  
11 that are pretty big numbers.

12 Q. For instance, you've got ES counselors,  
13 looks like there's 15 of those at a cost of  
14 1,170,000, correct?

15 A. Right. So you would take the 1,170,000  
16 and divide it by 15 to get the average cost per  
17 counselor.

18 Q. Sure. And for 260 days, that's a retired  
19 person; is that correct?

20 A. No, ma'am. 260 days is a full-time  
21 position, all year, 12 months.

22 Q. Then if you go down here at the very  
23 bottom, it's got teachers listed that are vacant,  
24 correct?

25 A. It does.

1 Q. Then if you go all the way down to the  
2 very bottom, it's got the total of the positions and  
3 it's about a thousand, correct?

4 A. Does that say 1,022?

5 Q. Yes. .92. And then it's got the cost of  
6 \$65,914,998, correct?

7 A. Yes.

8 Q. And so this basically is saying that as of  
9 June 1st -- as of June of 2020, if you add up the  
10 vacancies, you've got 1,023 vacancies and the total  
11 salaries for all the vacancies is running  
12 somewhere -- almost 66 million, correct?

13 A. That's what that appears to say.

14 Q. Okay. And vacancies tend to --

15 MS. STEINER: Let's have that marked the  
16 next-numbered exhibit.

17 MR. FOX: No objection.

18 (WHEREUPON, the  
19 previously-mentioned document was  
20 marked as Exhibit Number 9.)

21 BY MS. STEINER:

22 Q. And you did not score anyone that you  
23 recall?

24 A. I don't recall scoring anyone.

25 Q. That's all. Thank you for your time.

FURTHER THIS DEPONENT SAITH NOT

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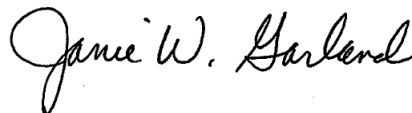
## REPORTER'S CERTIFICATION

STATE OF TENNESSEE       )  
COUNTY OF DAVIDSON       )

I, Janie W. Garland, LCR#111, licensed court reporter, in and for the State of Tennessee do hereby certify that the above deposition was reported by me and that the foregoing pages of the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number following my name below.



Janie W. Garland, LCR#111

E R R A T A P A G E

I, Lisa Spencer, having read the foregoing deposition, Pages 1 through 192, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

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Lisa Spencer

BY MS. HARBISON: [9] 150/14 158/22 163/17 164/11 165/12 166/25 168/23 182/9 185/20 BY MS. STEINER: [30] 11/1 34/14 56/9 62/21 63/8 64/9 67/9 68/3 83/6 87/12 92/24 93/10 93/17 93/22 94/11 94/21 95/10 96/5 110/2 118/12 124/24 126/13 127/11 129/9 131/14 133/2 133/10 141/7 146/11 192/21 MR. FOX: [39] 10/23 34/10 56/5 62/18 63/7 64/2 64/8 67/3 68/2 82/21 83/5 87/11 92/17 93/6 93/16 93/21 94/10 94/18 95/6 96/4 118/11 124/10 124/15 126/12 127/8 129/4 131/13 133/6 133/8 141/3 146/8 158/21 163/15 164/9 165/7 168/21 182/8 185/19 192/17 MS. HARBISON: [5] 158/16 166/18 182/3 185/14 187/13 MS. STEINER: [11] 56/7 64/6 82/15 82/25 95/4 109/24 124/13 124/21 133/7 187/15 192/15 THE WITNESS: [17] 10/25 34/11 67/4 92/18 93/7 94/19 124/11 124/16 127/9 129/6 133/9 141/4 146/9 163/16 164/10 165/8 168/22	118/3 123/10 123/12 123/13 123/14 191/21 12-month [3] 111/21 117/22 117/23 124 [1] 4/11 13 [6] 122/24 122/25 123/8 123/10 123/12 123/14 130 [2] 37/12 40/14 13262 [1] 169/6 13263 [1] 169/6 13286 [1] 154/10 13303 [1] 166/20 13889 [1] 182/17 13891 [1] 182/17 14 [3] 20/2 90/14 90/18 142 [1] 40/20 143 [2] 40/20 40/24 15 [13] 4/8 4/8 95/15 111/24 115/23 115/23 121/4 123/7 143/11 143/12 143/20 191/13 191/16 150 [1] 4/3 150,000 [1] 112/1 1507 [1] 116/12 1507.5 [2] 115/25 116/1 155 [3] 36/21 37/5 40/13 158 [1] 4/12 15th [3] 65/19 65/24 66/9 16 [3] 143/11 143/12 143/20 166 [1] 4/13 16th [2] 183/11 183/15 17 [1] 169/24 17th [2] 169/17 182/1 182 [1] 4/14 185 [3] 4/15 49/25 55/2 187 [1] 4/4 19.99 [3] 111/4 112/11 112/19 192 [2] 4/16 195/4 196300 [1] 3/24 1983 [7] 11/8 11/23 12/6 12/12 12/12 12/14 12/21 1988 [1] 13/20 1989 [1] 12/22 1991 [3] 13/20 13/21 18/8 1992 [1] 18/8 1997 [2] 18/8 18/8 1st [8] 90/12 155/7 155/15 156/25 160/21 183/18 184/12 192/9	56/14 70/7 74/7 105/24 109/15 154/22 187/1 2022 [2] 1/24 3/2 2080 [1] 111/7 20th [2] 37/23 140/14 21 [1] 140/11 21st [1] 140/14 22 [1] 5/13 222 [1] 2/9 22nd [3] 137/23 137/24 140/12 23 [1] 58/10 23rd [1] 183/14 25 [1] 116/25 26 [1] 110/20 26 million [1] 50/15 260 [2] 191/18 191/20 27th [7] 177/25 178/15 178/21 179/6 179/14 179/20 180/2 29.98 [5] 111/4 112/11 112/19 117/1 117/3
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